

Senate Bill No. 933

CHAPTER 311

An act to amend Sections 56140, 56200, 56205, and 56366 of, to add Sections 49069.5 and 56366.8 to, and to add Chapter 5.5 (commencing with Section 48850) to Part 27 of, the Education Code, to add Sections 7911, 7911.1, and 7912 to the Family Code, to amend Sections 1522, 1522.03, 1522.04, 1522.1, 1522.4, 1534, 1538, 1538.5, 1548, 1550, 1558, 1558.1, 1563, 1568.082, 1568.09, 1568.092, 1568.093, 1569.17, 1569.172, 1569.50, 1569.58, 1569.59, 1569.617, 1596.603, 1596.871, 1596.8713, 1596.877, 1596.885, 1596.8897, and 1596.8898 of, to add Sections 1520.1, 1520.11, 1522.02, 1522.41, 1522.42, 1522.43, 1534.5, 1568.042, 1569.1515, and 1596.952 to, the Health and Safety Code, to amend Section 11174.3 of the Penal Code, and to amend Sections 366, 727.1, 827, 10609.3, 11402, 11461, 11462, 11463, 11465, 16501.1, and 18358.30 of, to add Sections 361.21, 5867.5, 11466.21, 16501.2, and 16516.5 to, to add Chapter 2.5 (commencing with Section 16160) to Part 4 of, and to add Chapter 12.86 (commencing with Section 18987.6) to Part 6 of, Division 9 of, and to repeal Sections 11404.5 and 11467 of, the Welfare and Institutions Code, relating to human services, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor August 18, 1998. Filed with
Secretary of State August 19, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

SB 933, M. Thompson. Foster care.

Existing law provides that each person between the ages of 6 and 18 years, not otherwise exempted, is subject to compulsory full-time education and shall attend the public full-time day school or continuation school for the full time designated as the length of the schoolday by the governing board of the school district in which the residency of either the parent or legal guardian is located. Existing law provides that a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district if the pupil is placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a legal commitment or placement.

This bill would impose a state-mandated local program by requiring every county office of education to make available to agencies that place children in licensed children's institutions information on educational options for children residing in licensed children's institutions within its jurisdiction. The bill would require

every agency that places a child in a licensed children's institution to notify the local educational agency at the time a pupil is placed. The bill would impose a state-mandated local program by requiring a local educational agency to invite at least one noneducational agency representative that has placement responsibility for a pupil residing in a licensed children's institution to collaborate with the local educational agency in the monitoring of a placement in a nonpublic, nonsectarian school or agency.

Existing law provides that whenever a pupil transfers from one school district to another or to a private school, or transfers from a private school to a school district within the state, the pupil's permanent record shall be transferred by the former district or private school upon a request from the district or private school where the pupil intends to enroll.

This bill would impose a state-mandated local program by requiring a local educational agency with which a pupil in foster care has been most recently enrolled that has been informed of the next educational placement of the pupil to cooperate with the county social service or probation department to, upon request, ensure that the pupil's educational record, and to ensure that educational background information for the pupil's health and educational record, is transferred to the receiving local educational agency and the foster children services program in a timely manner.

Existing law requires the offices of county superintendents of schools to undertake various duties with regard to countywide and local plans submitted to the Superintendent of Public Instruction.

This bill would also require every county office, for each special education local plan area located in its jurisdiction that has completed a revised local plan, to make available a copy of the annual service plan adopted at a public hearing held by the special education local plan area, thereby imposing a state-mandated local program.

Existing law requires that each local plan submitted by a special education local plan area to the Superintendent of Public Instruction contain certain information, including a description of services to be provided by each school district and county office of education.

This bill would require including in the local plan a description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools or agencies and the method for ensuring that all requirements of each pupil's individualized education program are being met.

Existing law requires the development of a master contract for nonpublic, nonsectarian school or agency services.

This bill would require the master contract to include a description of the process being utilized by the school district, county office of education, or special education local plan area to oversee and evaluate placements in nonpublic, nonsectarian schools. The bill would require the State Department of Education, as part of its



certification process and complaint investigation process for nonpublic, nonsectarian schools or agencies, to provide advance notice of certification reviews and complaint investigations to, include in the process of reviewing and investigating, and transmit final reports to, districts, special education local plan areas, and county offices that work with the nonpublic, nonsectarian school or agency, and to provide advance notice of certification review to nonpublic, nonsectarian schools and agencies under review.

Existing law adopts the Interstate Compact for Children to cooperate in the interstate placement of children and enters California into the compact with all other jurisdictions joining the compact.

This bill would require the State Department of Social Services or its designee to investigate any threat to the health and safety of children placed by a California county social services agency or probation department pursuant to the compact. The bill would require the department to require certified out-of-state group homes to comply with California reporting requirements for all children. The bill would authorize the Compact Administrator to suspend temporarily new placements in out-of-state group homes pending completion of certain investigations.

Existing law imposes various requirements that are required to be met as a condition of licensing of community care facilities, including group homes, and provides for the licensure of those entities by the State Department of Social Services.

This bill would require group homes to operate with a provisional license during the first 12 months of operation, and would require the department to take certain actions during this period of operation. It would permit the department, under certain circumstances, to extend the provisional license for up to an additional 6 months.

This bill would impose the additional requirement that prior to becoming a member of a board of directors of a group home persons sign a statement that they understand their duties and obligations in that capacity, as a condition of licensing the group home. The bill would require a group home provider to schedule quarterly meetings and report the minutes of the meeting to the State Department of Social Services. The bill would require the board of directors to discuss licensing issues.

This bill would require the department to identify and distribute to all group home providers detailed information designed to educate members of the board of directors of the group homes on their roles and responsibilities and would specify that, as a condition to a group home receiving a payment rate, the board of directors of the group home shall sign a form indicating they have read and understood the requirements. The bill would require a board of directors of any group home, in order to receive a payment rate, to schedule and conduct meetings annually to review documents determined by the



department, including, but not limited to, licensing information, and to adopt regulations requiring the board of directors of a group home to make timely submissions of the minutes of their meetings, to appropriate agencies.

The bill would require any corporation that applies for licensure as a community care facility to list the facilities that any member of the board of directors, executive director, or executive officer, of the corporation, or executive director, has been licensed to operate, been employed in, or served as a member of the board of directors, executive officer, or an officer, and would prohibit the department from issuing a license to any corporate applicant that has such a member who is not eligible to work at a community care facility, and would permit the department to revoke the license of any corporation with a director, executive officer, or officer, who is not eligible to work in a community care facility, subject to giving the applicant notice and an opportunity to remove that individual.

Existing law requires that before issuing a license or special permit to any person to operate or manage a community care facility the State Department of Social Services determine if any person or any director or officer of an applicant corporation has ever been convicted of certain crimes and requires the department to deny the application in the case of a conviction of one or more of those crimes.

This bill would require applicants to submit a second set of fingerprints for purposes of searching criminal records of the Federal Bureau of Investigation, and would authorize the issuance of a license when the fingerprints have been submitted and all licensing qualifications have been met, except for the receipt of criminal history information from the Federal Bureau of Investigation subject to revocation if the department determines the person has a criminal record. The bill would, in limited circumstances, authorize the Director of Social Services to grant an exemption from the denial of the licensure if the director determines that the person convicted of a crime is of such good character as to justify issuance of the license or special permit.

The bill would authorize the department to create substitute group home employee registries for persons working at more than one facility licensed by the department to submit fingerprint cards and child abuse index information for child care registries.

Existing law states the intent of the Legislature that the Department of Justice charge a fee to cover its services provided in determining if any applicant or director or officer of a corporate applicant has been convicted of certain crimes.

This bill would authorize the Department of Justice to charge the fee.

The bill would also specify procedures to be followed when the Department of Justice cannot ascertain information concerning an applicant's criminal record check within a specified period.



This bill would require that the State Department of Social Services implement regulations regarding the roles and duties of a group home facility manager in overseeing a group home's operation and the time each spends at the group home and the inclusion of that information in the facility's plan of operation.

The bill would prohibit any group home or foster family agency or employee or director thereof to offer gifts or other remuneration to any employee of the State Department of Social Services or placement agency or employee of the court that exceeds certain limits. The bill would also prohibit the employees of the department from accepting any gift of any type from any group home or foster family agency licensee, employee, or director, and would make violation of that prohibition a misdemeanor. By creating a new crime, this bill would result in a state-mandated local program.

The bill would require the Director of Social Services to establish a certification program to ensure that administrators of group home facilities have appropriate training and certification.

Existing law creates the Certification Fund from which moneys, upon appropriation by the Legislature, shall be expended by the State Department of Social Services for the purpose of administering the residential care facilities for the elderly certification program.

This bill would, for the 1998–99 fiscal year, appropriate the sum of not to exceed \$250,000 from the Certification Fund to the State Department of Social Services for administration of the group home facility certification program. It would require repayment of this appropriation upon receipt of fees received pursuant to that program.

The bill would also impose other duties upon group homes, including the duty to develop a daily schedule of activities, and requirements relating to the maintenance of reports and other documents pertaining to the facility.

Existing law requires the periodic inspection and evaluation for quality of care of every licensed community care facility.

This bill would authorize the State Department of Social Services to interview children who are clients of group homes at any public or private agency at which they may be found.

Existing law authorizes the department to revoke or suspend a license and to deny an application for a license for a community care facility on certain grounds.

This bill would also authorize the State Department of Social Services to take those actions on the grounds of engaging in acts of financial malfeasance or willful or negligent failure to provide services for the care of clients, with respect to the operation of a community care facility.

Existing law authorizes the State Department of Social Services to prohibit a licensed community care facility from employing or continuing to employ, or allowing contact with clients of a licensed



facility, any person who has violated certain rules or regulations, engaged in certain conduct, or been denied an exemption to work or be present in a facility after having been convicted of certain crimes.

This bill would authorize the State Department of Social Services also to prohibit any person to whom those prohibitions apply from being a member of the board of directors, an executive director, or an officer of a community care facility, and would revise the procedures for implementation of the prohibition.

Existing law requires the Director of Social Services to ensure that licensing personnel at the department have appropriate training to carry out the requirements of law applicable to licensing community care facilities.

This bill would revise the scope of those areas of training required in the state development program to include providing group home and foster family agency licensing personnel with a minimum of 24 hours of training per year to increase their understanding of children in group homes, certified homes, and foster family homes.

Under existing law, the State Department of Social Services also licenses residential care facilities for persons with chronic, life-threatening illnesses, residential care facilities for the elderly, and child day care facilities.

The bill would set forth provisions applicable to these facilities similar to the foregoing provisions relating to fingerprint and criminal history requirements, financial malfeasance, and removal of directors and officers.

Since a violation of licensing provisions for those facilities covered by the bill is a crime, imposition of the foregoing requirements on these facilities would result in a state-mandated local program.

Existing law provides for the placement of children who are determined to be wards of the court in facilities outside of the state.

This bill would specify circumstances in which the minor placed in a facility outside of the state may be removed and returned to the court for a review of the suitability of continued placement out of the state.

Existing law requires counties to maintain a specified level of children's mental health services.

This bill would require counties that receive full system of care funding, as determined by the State Department of Mental Health, to provide to county social services and probation departments mental health screening, assessment, and participation in multidisciplinary and specialty mental health treatment services for children who are placed out of the home in group care, for those children who meet the definition of medical necessity, to the extent resources are available, and would require the State Department of Mental Health to develop an estimate of the extent to which assessment and treatment resources are available to meet the needs of children placed out of home in group care and who are at risk of



that placement. The bill would require the State Department of Mental Health, the State Department of Social Services, and the Judicial Council to develop a procedure for review of treatment plans for children receiving prescribed psychiatric medication and who are placed in out-of-home care.

Existing law requires the State Department of Social Services to complete a comprehensive evaluation of the Independent Living Program, in consultation with county Independent Living Program administrators, and to develop and implement a transitional housing model for youth who are preparing for emancipation from foster care.

This bill would state the intent of the Legislature that the foster care state plan be amended to ensure that all eligible children up to the age of 21 years may be served by the Independent Living Program.

Existing law provides for the provision of various benefits under the CalWORKs program for children who have been placed in foster care.

Existing law requires the department to adopt regulations requiring the use of the standard form for program statements and the level of care assessment instrument and process to determine the appropriate placement in out-of-home care.

This bill would repeal that requirement, and would require the department to issue to all county placing agencies and the courts, current best practice guidelines for the assessment of a child and the child's family unit. The bill would require the department to conduct a pilot project to test the effectiveness of using best practice standards for the assessment of children and families receiving child welfare and foster care services.

The bill would also revise the procedures for the establishment of a rate classification level and for an existing group home requesting a rate classification level increase under the foster care program and under the intensive foster care program.

Existing law provides for the reimbursement of foster care providers through the CalWORKs program, using a combination of federal, state, and county funds.

This bill would provide for an increase in those provider rates. Since state funds are continuously appropriated for the reimbursement of those providers, this bill would increase the continuous appropriation, thereby resulting in an appropriation.

The bill would also require group home providers, as a condition of receiving a rate under the foster care payment provisions of the CalWORKs program, to ensure that all documents that verify the provision of services in certain areas of child care, social work, and mental health be contemporaneously signed by the individual providing the services and by the group home representative responsible for preparing the document.



The bill would require an annual financial audit of a foster family agency or group home, and would make submission of the audit by foster family agencies and group home programs a condition to receiving a rate under the foster care program, except for certain new programs.

The bill would require the State Department of Social Services to convene and preside over a community care facilities law enforcement task force to identify and recommend to the appropriate committees of the Legislature specific statutory and regulatory changes to permit efficient and effective criminal prosecution of, and to permit efficient and effective civil recovery of public funds from individuals associated with illegal activities surrounding public funds paid to providers for the care of, and delivery of services to, clients of community care facilities.

Existing law establishes procedures for the determination of the level of care required by children placed in foster care, requires that the level of care assessment instrument address the safety needs of the child, and requires the State Department of Social Services to develop a standard form for program statements for ratesetting, community care licensing, and county placement purposes for various types of foster care provider facilities. Existing law also requires the State Departments of Social Services and Mental Health to report to the Legislature on the level of care instrument by January 1, 1995.

This bill would repeal those requirements.

This bill would also require that foster children placed in out-of-state group homes by county welfare departments or county probation departments shall be visited at least once monthly by a county social worker or probation officer, and would require the state to pay 100% of the costs of those visits.

Existing law provides for various services for children and families.

This bill would require the Office of the State Foster Care Ombudsperson to be established in the State Department of Social Services with prescribed powers and duties.

This bill would authorize any county to enter into performance agreements with private, nonprofit agencies to encourage innovation in the delivery of children's services, to develop services not available in the community, and to promote change in the child welfare services system. It would permit the Director of Social Services to waive foster care regulations when necessary to implement these county programs.

The bill would authorize the State Department of Social Services to implement certain of its provisions through the adoption of emergency regulations.

This bill would also require the State Department of Social Services, under the direction of the Health and Welfare Agency and in collaboration with specified parties, to conduct a reexamination of

the role of the foster care system and, if necessary, submit recommendations to the Legislature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

This bill would declare that it is to take effect immediately as an urgency statute.

Appropriation: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 5.5 (commencing with Section 48850) is added to Part 27 of the Education Code, to read:

CHAPTER 5.5. EDUCATIONAL PLACEMENT OF PUPILS RESIDING IN
LICENSED CHILDREN'S INSTITUTIONS

48850. (a) Every county office of education shall make available to agencies that place children in licensed children's institutions information on educational options for children residing in licensed children's institutions within the jurisdiction of the county office of education for use by the placing agencies in assisting parents and foster children to choose educational placements.

(b) For purposes of individuals with exceptional needs residing in licensed children's institutions, making a copy of the annual service plan, prepared pursuant to subdivision (g) of Section 56205, available to those special education local plan areas that have revised their local plans pursuant to Section 56836.03 shall meet the requirements of subdivision (a).

48852. Every agency that places a child in a licensed children's institution shall notify the local educational agency at the time a pupil is placed in a licensed children's institution. As part of that notification, the placing agency shall provide any available information on immediate past educational placements to facilitate prompt transfer of records and appropriate educational placement. Nothing in this section shall be construed to prohibit prompt educational placement prior to notification.



48854. A licensed children's institution or nonpublic, nonsectarian school, or agency may not require as a condition of placement that educational authority for a child, as defined in Section 48859 be designated to that institution, school, or agency.

48856. A local educational agency shall invite at least one noneducational agency representative that has placement responsibility for a pupil residing in a licensed children's institution to collaborate with the local educational agency in the monitoring of a placement in a nonpublic, nonsectarian school or agency.

48859. For purposes of this chapter, "educational authority" means an entity designated to represent the interests of a child for educational and related services.

SEC. 2. Section 49069.5 is added to the Education Code, to read:

49069.5. (a) The Legislature finds and declares that the mobility of pupils in foster care often disrupts their educational experience. The Legislature also finds that efficient transfer of pupil records is a critical factor in the swift placement of foster children in educational settings.

(b) Upon the request of a county social service or probation department, a regional center for the developmentally disabled, or other placing agency, a local education agency with which a pupil in foster care has most recently been enrolled that has been informed of the next educational placement of the pupil shall cooperate with the county social service or probation department to ensure that the pupil's education record is transferred to the receiving local education agency in a timely manner.

(c) Whenever a local educational agency with which a pupil in foster care has most recently been enrolled is informed of the next educational placement of the pupil, that local educational agency shall cooperate with the county social service or probation department to ensure that educational background information for that pupil's health and educational record, as described in Section 16010 of the Welfare and Institutions Code, is transferred to the receiving local educational agency in a timely manner.

(d) Information provided pursuant to subdivision (c) of this section shall include, but not be limited to the following:

(1) The location of the pupil's records.

(2) The last school and teacher of the pupil.

(3) The pupil's current grade level.

(4) Any information deemed necessary to enable enrollment at the receiving school, to the extent allowable under state and federal law.

(e) Notice shall be made within five working days and information transferred within five additional working days of receipt of information regarding the new educational placement of the pupil in foster care.

SEC. 3. Section 56140 of the Education Code is amended to read:

56140. County offices shall do all of the following:

(a) Initiate and submit to the superintendent a countywide plan for special education which demonstrates the coordination of all local plans submitted pursuant to Section 56200 and which ensures that all individuals with exceptional needs residing within the county, including those enrolled in alternative education programs, including, but not limited to, alternative schools, charter schools, opportunity schools and classes, community day schools operated by school districts, community schools operated by county offices of education, and juvenile court schools, will have access to appropriate special education programs and related services. However, a county office shall not be required to submit a countywide plan when all the districts within the county elect to submit a single local plan.

(b) Within 45 days, approve or disapprove any proposed local plan submitted by a district or group of districts within the county or counties. Approval shall be based on the capacity of the district or districts to ensure that special education programs and services are provided to all individuals with exceptional needs.

(1) If approved, the county office shall submit the plan with comments and recommendations to the superintendent.

(2) If disapproved, the county office shall return the plan with comments and recommendations to the district. This district may immediately appeal to the superintendent to overrule the county office's disapproval. The superintendent shall make a decision on an appeal within 30 days of receipt of the appeal.

(3) A local plan may not be implemented without approval of the plan by the county office or a decision by the superintendent to overrule the disapproval of the county office.

(c) Participate in the state onsite review of the district's implementation of an approved local plan.

(d) Join with districts in the county which elect to submit a plan or plans pursuant to subdivision (c) of Section 56195.1. Any plan may include more than one county, and districts located in more than one county. Nothing in this subdivision shall be construed to limit the authority of a county office to enter into other agreements with these districts and other districts to provide services relating to the education of individuals with exceptional needs.

(e) For each special education local plan area located within the jurisdiction of the county office of education that has submitted a revised local plan pursuant to Section 56836.03, the county office shall comply with Section 48850, as it relates to individuals with exceptional needs, by making available to agencies that place children in licensed children's institutions a copy of the annual service plan adopted pursuant to subdivision (g) of Section 56205.

SEC. 4. Section 56200 of the Education Code, as amended by Chapter 89 of the Statutes of 1998, is amended to read:

56200. Each local plan submitted to the superintendent under this part shall contain all the following:

(a) Compliance assurances, including general compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), and this part.

(b) A description of services to be provided by each district and county office. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(c) (1) A description of the governance and administration of the plan, including the role of county office and district governing board members.

(2) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(d) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56170.

(e) An annual budget plan to allocate instructional personnel service units, support services, and transportation services directly to entities operating those services and to allocate regionalized services funds to the county office, responsible local agency, or other alternative administrative structure. The annual budget plan shall be adopted at a public hearing held by the district, special education local plan area, or county office, as appropriate. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during the fiscal year, and these revisions may be submitted to the superintendent as amendments to the allocations set forth in the plan. However, the revisions shall, prior to submission to the superintendent, be approved according to the policymaking process, established pursuant to paragraph (2) of subdivision (c).

(f) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the superintendent.

(g) A description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

(h) A description of the process being utilized to meet the requirements of Section 56303.

(i) A description of the process being utilized to meet the requirements of the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

(j) A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools and the method for ensuring that all requirements of each pupil's individualized education program are being met. This description shall include a method for evaluating whether the pupil is making appropriate educational progress.

SEC. 5. Section 56205 of the Education Code, as amended by Chapter 89 of the Statutes of 1998, is amended to read:

56205. Each special education local plan area shall submit a local plan to the superintendent under this part. The local plan shall contain all the following:

(a) Compliance assurances, including general compliance with the Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Sec. 794), the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), federal regulations relating thereto, and this part.

(b) (1) A description of the governance and administration of the plan, including identification of the governing body of a multidistrict plan or the individual responsible for administration in a single district plan, and a description of the elected officials to whom the governing body or individual is responsible.

(2) A description of the regionalized operations and services listed in Section 56836.23 and the direct instructional support provided by program specialists in accordance with Section 56368 to be provided through the plan.

(3) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall specify the responsibilities of each participating county office and district governing board in the policymaking process, the responsibilities of the superintendents of each participating district and county in the implementation of the plan, and the responsibilities of district and county administrators of special education in coordinating the administration of the local plan.

(4) Multidistrict plans, submitted pursuant to subdivision (b) or (c) of Section 56195.1, shall identify the respective roles of the administrative unit and the administrator of the special education local plan area and the individual local education agencies within the special education local plan area in relation to the following:

(A) The hiring, supervision, evaluation, and discipline of the administrator of the special education local plan area and staff employed by the administrative unit in support of the local plan.

(B) The allocation from the state of federal and state funds to the special education local plan area administrative unit or to local education agencies within the special education local plan area.

(C) The operation of special education programs.

(D) Monitoring the appropriate use of federal, state, and local funds allocated for special education programs.

(E) The preparation of program and fiscal reports required of the special education local plan area by the state.

(5) The description of the governance and administration of the plan, and the policymaking process, shall be consistent with subdivision (f) of Section 56001, subdivision (a) of Section 56195.3, and Section 56195.9 and shall reflect a schedule of regular consultations regarding policy and budget development with representatives of special and regular teachers and administrators selected by the groups they represent and parent members of the community advisory committee established pursuant to Article 7 (commencing with Section 56190) of Chapter 2.

(c) A description of the method by which members of the public, including parents or guardians of individuals with exceptional needs who are receiving services under the plan, may address questions or concerns to the governing body or individual identified in paragraph (1) of subdivision (b).

(d) A description of an alternative dispute resolution process, including mediation and final and binding arbitration to resolve disputes over the distribution of funding, the responsibility for service provision, and other activities specified within the plan. Any arbitration shall be conducted by the department.

(e) Copies of joint powers agreements or contractual agreements, as appropriate, for districts and counties that elect to enter into those agreements pursuant to subdivision (b) or (c) of Section 56195.1.

(f) An annual budget plan that shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each school in the local plan area at least 15 days prior to the hearing. The annual budget plan may be revised during any fiscal year according to the policymaking process established pursuant to paragraphs (3) and (5) of subdivision (b) and consistent with subdivision (f) of Section 56001 and Section 56195.9. The annual budget plan shall identify expected expenditures for all items required by this part which shall include, but not be limited to, the following:

(1) Funds received in accordance with Chapter 7.2 (commencing with Section 56836).

(2) Administrative costs of the plan.

(3) Special education services to pupils with severe disabilities and low incidence disabilities.

(4) Special education services to pupils with nonsevere disabilities.

(5) Supplemental aids and services to meet the individual needs of pupils placed in regular education classrooms and environments.

(6) Regionalized operations and services, and direct instructional support by program specialists in accordance with Article 6 (commencing with Section 56836.23) of Chapter 7.2.

(7) The use of property taxes allocated to the special education local plan area pursuant to Section 2572.

(g) An annual service plan shall be adopted at a public hearing held by the special education local plan area. Notice of this hearing shall be posted in each school in the special education local plan area at least 15 days prior to the hearing. The annual service plan may be revised during any fiscal year according to the policymaking process established pursuant to paragraphs (3) and (5) of subdivision (b) and consistent with subdivision (f) of Section 56001 and Section 56195.9. The annual service plan shall include a description of services to be provided by each district and county office, including the nature of the services and the location at which the services will be provided, including alternative schools, charter schools, opportunity schools and classes, community day schools operated by school districts, community schools operated by county offices of education, and juvenile court schools regardless of whether the district or county office of education is participating in the local plan. This description shall demonstrate that all individuals with exceptional needs shall have access to services and instruction appropriate to meet their needs as specified in their individualized education programs.

(h) Verification that the plan has been reviewed by the community advisory committee and that the committee had at least 30 days to conduct this review prior to submission of the plan to the superintendent.

(i) A description of the identification, referral, assessment, instructional planning, implementation, and review in compliance with Chapter 4 (commencing with Section 56300).

(j) A description of the process being utilized to meet the requirements of Section 56303.

(k) A description of the process being utilized to meet the requirements of the California Early Intervention Services Act, Title 14 (commencing with Section 95000) of the Government Code.

(l) The local plan, budget plan, and annual service plan shall be written in language that is understandable to the general public.

(m) A description of the process being utilized to oversee and evaluate placements in nonpublic, nonsectarian schools and the method of ensuring that all requirements of each pupil's individualized education program are being met. The description shall include a method for evaluating whether the pupil is making appropriate educational progress.

SEC. 6. Section 56366 of the Education Code, as amended by Chapter 89 of the Statutes of 1998, is amended to read:

56366. It is the intent of the Legislature that the role of the nonpublic, nonsectarian school or agency shall be maintained and

continued as an alternative special education service available to districts, special education local plan areas, county offices, and parents.

(a) The master contract for nonpublic, nonsectarian school or agency services shall be developed in accordance with the following provisions:

(1) The master contract shall specify the general administrative and financial agreements between the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office to provide the special education and designated instruction and services, as well as transportation specified in the pupil's individualized education program. The administrative provisions of the contract also shall include procedures for recordkeeping and documentation, and the maintenance of school records by the contracting district, special education local plan area, or county office to ensure that appropriate high school graduation credit is received by the pupil. The contract may allow for partial or full-time attendance at the nonpublic, nonsectarian school.

(2) (A) The master contract shall include an individual services agreement for each pupil placed by a district, special education local plan area, or county office that will be negotiated for the length of time for which nonpublic, nonsectarian school or agency special education and designated instruction and services are specified in the pupil's individualized education program.

(B) The master contract shall include a description of the process being utilized by the school district, county office of education, or special education local plan area to oversee and evaluate placements in nonpublic, nonsectarian schools. This description shall include a method for evaluating whether the pupil is making appropriate educational progress.

(3) Changes in educational instruction, services, or placement provided under contract may only be made on the basis of revisions to the pupil's individualized education program.

At any time during the term of the contract or individual services agreement, the parent; nonpublic, nonsectarian school or agency; or district, special education local plan area, or county office may request a review of the pupil's individualized education program by the individualized education program team. Changes in the administrative or financial agreements of the master contract that do not alter the individual services agreement that outlines each pupil's educational instruction, services, or placement may be made at any time during the term of the contract as mutually agreed by the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office.

(4) The master contract or individual services agreement may be terminated for cause. The cause shall not be the availability of a public class initiated during the period of the contract unless the

parent agrees to the transfer of the pupil to a public school program. To terminate the contract either party shall give 20 days' notice.

(5) The nonpublic, nonsectarian school or agency shall provide all services specified in the individualized education program, unless the nonpublic, nonsectarian school or agency and the district, special education local plan area, or county office agree otherwise in the contract or individualized services agreement.

(6) Related services provided pursuant to a nonpublic, nonsectarian agency master contract shall only be provided during the period of the child's regular or extended school year program, or both, unless otherwise specified by the pupil's individualized education program.

(7) The nonpublic, nonsectarian school or agency shall report attendance of pupils receiving special education and designated instruction and services as defined by Section 46307 for purposes of submitting a warrant for tuition to each contracting district, special education local plan area, or county office.

(b) The master contract or individual services agreement shall not include special education transportation provided through the use of services or equipment owned, leased, or contracted by a district, special education local plan area, or county office for pupils enrolled in the nonpublic, nonsectarian school or agency unless provided directly or subcontracted by that nonpublic, nonsectarian school or agency.

The superintendent shall withhold 20 percent of the amount apportioned to a school district or county office for costs related to the provision of nonpublic, nonsectarian school or agency placements if the superintendent finds that the local education agency is in noncompliance with this subdivision. This amount shall be withheld from the apportionments in the fiscal year following the superintendent's finding of noncompliance. The superintendent shall take other appropriate actions to prevent noncompliant practices from occurring and report to the Legislature on those actions.

(c) (1) If the pupil is enrolled in the nonpublic, nonsectarian school or agency with the approval of the district, special education local plan area, or county office prior to agreement to a contract or individual services agreement, the district, special education local plan area, or county office shall issue a warrant, upon submission of an attendance report and claim, for an amount equal to the number of creditable days of attendance at the per diem tuition rate agreed upon prior to the enrollment of the pupil. This provision shall be allowed for 90 days during which time the contract shall be consummated.

(2) If after 60 days the master contract or individual services agreement has not been finalized as prescribed in paragraph (1) of subdivision (a), either party may appeal to the county

superintendent of schools, if the county superintendent is not participating in the local plan involved in the nonpublic, nonsectarian school or agency contract, or the superintendent, if the county superintendent is participating in the local plan involved in the contract, to negotiate the contract. Within 30 days of receipt of this appeal, the county superintendent or the superintendent, or his or her designee, shall mediate the formulation of a contract which shall be binding upon both parties.

(d) No master contract for special education and related services provided by a nonpublic, nonsectarian school or agency shall be authorized under this part unless the school or agency has been certified as meeting those standards relating to the required special education and specified related services and facilities for individuals with exceptional needs. The certification shall result in the school's or agency's receiving approval to educate pupils under this part for a period no longer than four years from the date of the approval.

(e) By September 30, 1998, the procedures, methods, and regulations for the purposes of contracting for nonpublic, nonsectarian school and agency services pursuant to this section and for reimbursement pursuant to Sections 56836.16 and 56836.20 shall be developed by the superintendent in consultation with statewide organizations representing providers of special education and designated instruction and services. The regulations shall be established by rules and regulations issued by the board.

SEC. 7. Section 56366.8 is added to the Education Code, to read:

56366.8. The State Department of Education, as a part of its certification process and complaint investigation process for nonpublic, nonsectarian schools or agencies shall do all of the following:

(a) Provide advance notice of certification reviews to the contracting district, special education local plan area, or county office, and to the nonpublic, nonsectarian school or agency under certification review.

(b) Provide advance notice of complaint investigations to the contracting district, special education local plan area, or county office of education.

(c) Include the contracting district, special education local plan area, or county office in certification reviews and complaint investigations.

(d) Transmit final reports of certification reviews and complaint investigations to districts, special education local plan areas, and county offices, placement agencies, and educational agencies that contract with the nonpublic, nonsectarian school or agency.

SEC. 8. The Legislature recommends that the Judicial Council adopt appropriate rules, standards, and forms regarding the educational placement of children who are placed in foster care that would do all of the following:

(a) Ensure that state courts routinely indicate the party that maintains or assumes the educational rights of a child placed in foster care to facilitate the prompt educational placement of the child.

(b) Ensure that, when ordering that a parent maintains educational authority for a child who is placed in foster care, the parent and the child are informed of both of the following:

(1) The parent's right to maintain educational authority for the child.

(2) The parent's right to designate another person or entity to maintain educational authority for the child.

(c) Ensure that state courts develop consistent policies regarding authorizing agencies that place children in foster care to receive the children's records.

SEC. 9. Section 7911 is added to the Family Code, to read:

7911. The Legislature finds and declares all of the following:

(a) The health and safety of California children placed by a county social services agency or probation department out of state pursuant to the provisions of the Interstate Compact on the Placement of Children are a matter of statewide concern.

(b) The Legislature therefore affirms its intention that the State Department of Social Services has full authority to require an assessment and placement recommendation by a county multidisciplinary team prior to placement of a child in an out-of-state group home, to investigate allegations of child abuse or neglect of minors so placed, and to ensure that minors in out-of-state group homes meet all California group home licensing standards.

(c) This section is declaratory of existing law with respect to the Governor's designation of the State Department of Social Services to act as the compact administrator and of that department to act as the single state agency charged with supervision of public social services under Section 10600 of the Welfare and Institutions Code.

SEC. 10. Section 7911.1 is added to the Family Code, to read:

7911.1. (a) Notwithstanding any other provision of law, the State Department of Social Services or its designee shall investigate any threat to the health and safety of children placed by a California county social services agency or probation department in an out-of-state group home pursuant to the provisions of the Interstate Compact on the Placement of Children. This authority shall include the authority to interview children or staff in private or review their file at the out-of-state facility or wherever the child or files may be at the time of the investigation. Notwithstanding any other provisions of law, the State Department of Social Services or its designee shall require certified out-of-state group homes to comply with the reporting requirements applicable to group homes licensed in California pursuant to Title 22 of the California Code of Regulations for each child in care regardless of whether he or she is a California placement, by submitting a copy of the required reports to the

Compact Administrator within regulatory timeframes. The Compact Administrator within one business day of receiving a serious events report shall verbally notify the appropriate placement agencies and within five working days of receiving a written report from the out-of-state group home, forward a copy of the written report to the appropriate placement agencies.

(b) Any contract, memorandum of understanding, or agreement entered into pursuant to paragraph (b) of Article 5 of the Interstate Compact on the Placement of Children regarding the placement of a child out of state by a California county social services agency or probation department shall include the language set forth in subdivision (b).

(c) The State Department of Social Services or its designee shall perform initial and continuing inspection of out-of-state group homes in order to either certify that the out-of-state group home meets all licensure standards required of group homes operated in California or that the department has granted a waiver to a specific licensing standard upon a finding that there exists no adverse impact to health and safety. Any failure by an out-of-state group home facility to make children or staff available as required by subdivision (a) for a private interview or make files available for review shall be grounds to deny or discontinue the certification. The State Department of Social Services shall grant or deny an initial certification or a waiver under this subdivision to an out-of-state group home facility within 12 months of the effective date of this section. Certifications made pursuant to this subdivision shall be reviewed annually.

(d) Within six months of the effective date of this section, a county shall be required to obtain an assessment and placement recommendation by a county multidisciplinary team for each child in an out-of-state group home facility. On or after March 1, 1999, a county shall be required to obtain an assessment and placement recommendation by a county multidisciplinary team prior to placement of a child in an out-of-state group home facility.

(e) Any failure by an out-of-state group home to obtain or maintain its certification as required by subdivision (c) shall preclude the use of any public funds, whether county, state, or federal, in the payment for the placement of any child in that out-of-state group home, pursuant to the Interstate Compact on the Placement of Children.

(f) A multidisciplinary team shall consist of participating members from county social services, county mental health, county probation, county superintendents of schools, and other members as determined by the county.

(g) (1) The department may deny, suspend, or discontinue the certification of the out-of-state group home if the department makes a finding that the group home is not operating in compliance with the requirements of subdivision (c).



(2) Any judicial proceeding to contest the department's determination as to the status of the out-of-state group home certificate shall be held in California pursuant to Section 1085 of the Code of Civil Procedure.

(h) This section shall not impact placements made pursuant to Chapter 26.5 (commencing with Section 7570) of Division 7 of Title 1 of the Government Code relating to seriously emotionally disturbed children.

(i) Only an out-of-state group home authorized by the Compact Administrator to receive state funds for the placement by a county social services agency or probation department of any child in that out-of-state group home from the effective date of this section shall be eligible for public funds pending the department's certification under this section.

SEC. 11. Section 7912 is added to the Family Code, to read:

7912. (a) The Legislature finds and declares that the health and safety of children in out-of-state group home care pursuant to the Interstate Compact on the Placement of Children is a matter of statewide concern. The Legislature therefore affirms its intention that children placed by a county social services agency or probation department in out-of-state group homes be accorded the same personal rights and safeguards of a child placed in a California group home. This section is in clarification of existing law.

(b) The Compact Administrator may temporarily suspend any new placements in an out-of-state group home, for a period not to exceed 100 days, pending the completion of an investigation, pursuant to subdivision (a) of Section 7911.1, regarding a threat to the health and safety of children in care. During any suspension period the department or its designee shall have staff daily onsite at the out-of-state group home.

SEC. 12. Section 1520.1 is added to the Health and Safety Code, to read:

1520.1. In addition to Section 1520, applicants for a group home facility license shall meet the following requirements:

(a) (1) During the first 12 months of operation, the facility shall operate with a provisional license. After eight months of operation, the department shall conduct a comprehensive review of the facility for compliance with all applicable laws and regulations and help develop a plan of correction with the provisional licensee, if appropriate. By the end of the 12th month of operation, the department shall determine if the permanent license should be issued.

(2) If the department determines that the group home is in substantial compliance with licensing standards, notwithstanding Section 1525.5, the department may extend the provisional license for up to an additional six months for either of the following reasons:

(A) The group home requires additional time to be in full compliance with licensing standards.

(B) After 12 months of operation, the group home is not operating at 50 percent of its licensed capacity.

(3) By no later than the first business day of the 17th month of operation, the department shall conduct an additional review of a facility for which a provisional license is extended pursuant to paragraph (2), in order to determine whether a permanent license should be issued.

(4) The department may deny a group home license application at any time during the term of the provisional license to protect the health and safety of clients. If the department denies the application, the group home shall cease operation immediately. Continued operation of the facility after the department denies the application or the provisional license expires shall constitute unlicensed operation.

(5) When the department notifies a city or county planning authority pursuant to subdivision (c) of Section 1520.5, the department shall briefly describe the provisional licensing process and the timelines provided for under that process, as well as provide the name, address, and telephone number of the district office licensing the facility where a complaint or comment about the group home's operation may be filed.

(b) (1) After the production of the booklet provided for in paragraph (2), every member of the group home's board of directors shall, prior to becoming a member of the board of directors sign a statement that the board member understands his or her legal duties and obligations as a member of the board of directors and that the group home's operation is governed by laws and regulations that are enforced by the department, as set forth in the booklet. The applicant, provisional licensee, and licensee shall have this statement available for inspection by the department. For members of the board of directors when the booklet is produced, the licensee shall obtain this statement by the next scheduled meeting of the board of directors. Compliance with this paragraph shall be a condition of licensure.

(2) No later than May 1, 1999, the department, in cooperation with the Department of Justice and in consultation with group home providers, shall develop and distribute to every group home provider detailed information designed to educate members of the group home provider's board of directors of their roles and responsibilities as board members of a public benefit corporation under the laws of this state. The information shall be included in a booklet, which shall include, but not be limited to, all of the following:

(A) The financial responsibilities of a member of the board of directors.

(B) Disclosure requirements for self-dealing transactions.

(C) Legal requirements pertaining to articles of incorporation, bylaws, length of board member terms, voting procedures, board meetings, quorums, minutes of board meetings, and, as provided for in subdivision (f), board member duties.

(D) A general overview of the laws and regulations governing the group home's operation that are enforced by the department.

(c) All financial records submitted by a facility to the department, or that are submitted as part of an audit of the facility, including, but not limited to, employee timecards and timesheets, shall be signed and dated by the employee and by the group home representative who is responsible for ensuring the accuracy of the information contained in the record, and shall contain an affirmative statement that the signatories understand that the information contained in the document is correct to the best of their knowledge and that submission of false or misleading information may be prosecuted as a crime.

(d) An applicant, provisional licensee, or licensee shall maintain, submit, and sign financial documents to verify the legitimacy and accuracy of these documents. These documents include, but are not limited to, the group home application, any financial documents and plans of corrections submitted to the department, and time sheets.

(e) (1) It is the intent of the Legislature that a group home have either representatives on its board of directors, as listed in paragraph (2), or a community advisory board, that meets at least annually.

(2) The representatives on the board of directors or the community advisory board members should consist of at least the following persons:

(A) A member of the facility's board of directors.

(B) Members of the community where the facility is located.

(C) Neighbors of the facility.

(D) Current or former clients of the facility.

(E) A representative from a local law enforcement or other city or county representative.

(f) Each group home provider shall schedule and conduct quarterly meetings of its board of directors. During these quarterly meetings, the board of directors shall review and discuss licensing reports, financial and program audit reports of its group home operations, special incident reports, and any administrative action against the licensee or its employees. The minutes shall reflect the board's discussion of these documents and the group home's operation. The licensee shall make available the minutes of group home board of directors meetings to the department.

SEC. 13. Section 1520.11 is added to the Health and Safety Code, to read:

1520.11. (a) A corporation that applies for licensure with the department shall list the facilities that any member of the board of directors, an executive director, or any officer has been licensed to

operate, been employed in, or served as a member of the board of directors, the executive director, or an officer.

(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.1.

(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, an executive director, or an officer, who is not eligible for licensure pursuant to Section 1520.3 or Section 1558.1.

(d) Prior to instituting an administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee. The licensee shall remove the person from that position within 15 days or, if the person has client contact, he or she shall be removed immediately upon notification.

SEC. 14. Section 1522 of the Health and Safety Code is amended to read:

1522. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, foster family home, or a certified family home. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) Before issuing a license or special permit to any person or persons to operate or manage a community care facility, the State Department of Social Services shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, of any of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code. No fee

shall be charged by the Department of Justice or the State Department of Social Services for the fingerprinting of an applicant for a license or special permit to operate a facility providing nonmedical board, room, and care for six or less children or for obtaining a criminal record of the applicant pursuant to this section. The following shall apply to the criminal record information:

(1) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(2) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services shall cease processing the application until the conclusion of the trial.

(3) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(4) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (g).

(5) An applicant and any other person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by this subdivision. If an applicant and persons listed in subdivision (b) meet all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) (A) Any staff person, volunteer, or employee who has contact with the clients. A volunteer shall be exempt from the requirements of this subdivision if the volunteer is a relative of a client in care at the facility and is not used to replace or supplement staff in providing direct care and supervision of clients.

(B) A volunteer in an adult residential facility shall be exempt from the requirements of this subdivision if he or she is a relative, significant other, or close friend of a client receiving care in the facility and the volunteer is not used to replace or supplement staff in providing direct care and supervision of clients.

(5) Except for staff members of social rehabilitation facilities serving minors with alcohol or drug abuse problems, staff members of social rehabilitation facilities, other than those specified in paragraphs (1) and (2), are exempt from fingerprinting requirements.

(6) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(7) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) (1) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a community care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the community care facility. These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints and shall be submitted to the Department of Justice by the licensee or sent by electronic transmission in a manner approved by the State Department of Social Services. A licensee's failure to submit fingerprints to the Department of Justice, or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation. The department may assess civil penalties for continued violations as permitted by Section 1548. The fingerprints shall then



be submitted to the State Department of Social Services for processing. Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(2) Within 14 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in subdivision (a). If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprints. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. If new fingerprints are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice if the person has no criminal history recorded. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation. The department may assess civil penalties for continued violations as permitted by Section 1548.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of, or is awaiting trial for, a sex offense against a minor, or has been convicted for an offense specified in Section 243.4, 273a, or 273d or subdivision (a) or (b) of Section 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility. The State Department of Social Services may subsequently grant an exemption pursuant to subdivision (g). If the conviction or arrest was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the community care facility, or bar the person from entering the community care facility; or (2) seek an exemption pursuant to subdivision (g). The State Department of Social Services shall

determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1550.

(4) The department may issue an exemption on its own motion pursuant to subdivision (g) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulation to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (g). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) Before issuing a license, special permit, or certificate of approval to any person or persons to operate or manage a foster family home or certified family home as described in Section 1506, the State Department of Social Services or other approving authority shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code or arrested for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, if any, of those persons. No fee shall be charged by the Department of Justice or the State Department of Social Services for the fingerprinting of an applicant for a license, special permit, or certificate of approval described in this subdivision. The record, if any, shall be taken into consideration when evaluating a prospective applicant. The following shall apply to the criminal record information:

(A) If the applicant or other persons specified in subdivision (b) have convictions that would make the applicant's home unfit as a foster family home or a certified family home, the license, special permit, or certificate of approval shall be denied.

(B) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department

of Social Services or other approving authority shall cease processing the application until the conclusion of the trial.

(C) For the purposes of this subdivision, a criminal record clearance provided under Section 8712 of the Family Code may be used by the department or other approving agency.

(D) An applicant for a foster family home license or to be certified as a family home, and any other person specified in subdivision (b), shall submit a second set of fingerprints to the Department of Justice for the purpose of searching the criminal records of the Federal Bureau of Investigation, in addition to the criminal records search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license, or the foster family agency may issue a certificate of approval, if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure or certification, the department determines that the licensee, certified foster parent, or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1550 and the certificate of approval revoked pursuant to subdivision (b) of Section 1534. The department may also suspend the license pending an administrative hearing pursuant to Section 1550.5.

(2) Any person specified in this subdivision shall, as a part of the application, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions or arrests for any crime against a child, for spousal or cohabitant abuse, or any crime for which the department cannot grant an exemption if the person was convicted and shall submit these fingerprints to the licensing agency or other approving authority.

(3) (A) The foster family agency shall obtain fingerprints from certified home applicants and from persons specified in subdivision (b) and shall submit them directly to the Department of Justice or send them by electronic transmission in a manner approved by the State Department of Social Services. A foster home licensee or foster family agency shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with paragraph (1) of subdivision (h) prior to the person's employment, residence, or initial presence. A licensee's failure to submit fingerprints to the Department of Justice, or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency, and the immediate assessment of civil penalties of one hundred dollars (\$100) per violation. The



State Department of Social Services may assess civil penalties for continued violations, as permitted by Section 1548. The fingerprints shall then be submitted to the State Department of Social Services for processing.

(B) Upon request of the licensee, who shall enclose a self-addressed stamped envelop for this purpose, the Department of Justice shall verify receipt of fingerprints. Within five working days of the receipt of the criminal record or information regarding criminal convictions from the Department of Justice, the department shall notify the applicant of any criminal arrests or convictions. If no arrests or convictions are recorded, the Department of Justice shall provide the foster home licensee or the foster family agency with a statement of that fact concurrent with providing the information to the State Department of Social Services.

(4) If the State Department of Social Services finds that the applicant, or any other person specified in subdivision (b), has been convicted of a crime other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (g).

(5) If the State Department of Social Services finds after licensure or the granting of the certificate of approval that the licensee, certified foster parent, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license or certificate of approval may be revoked by the department or the foster family agency, whichever is applicable, unless the director grants an exemption pursuant to subdivision (g). A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by paragraph (3) of subdivision (c) shall be grounds for disciplining the licensee pursuant to Section 1550.

(e) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the State Department of Social Services is permitted to take following the establishment of a conviction may be taken when the time for appeal



has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(g) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as specified in paragraphs (1) and (4) of subdivision (a), or for a license, special permit, or certificate of approval as specified in paragraphs (4) and (5) of subdivision (d), or for employment, residence, or presence in a community care facility as specified in paragraphs (2), (3), and (4) of subdivision (c), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). Except as otherwise provided in this subdivision, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director may grant an exemption if the employee or prospective employee, who was convicted of a crime against an individual prescribed in paragraph (1), (2), (7), or (8) of subdivision (c) of Section 667.5 of the Penal Code, has been rehabilitated as provided in Section 4852.03 of the Penal Code, has maintained the conduct required in Section 4852.05 of the Penal Code for at least 10 years, and has the recommendation of the district attorney representing the



employee's county of residence, or if the employee or prospective employee has received a certificate of rehabilitation pursuant to Chapter 3.5 (commencing with Section 4852.01) of Title 6 of Part 3 of the Penal Code.

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1558.

(h) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal record clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal record clearance to be transferred.

(i) The full criminal record obtained for purposes of this section may be used by the department or by a licensed adoption agency as a clearance required for adoption purposes.

(j) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1558, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(k) (1) The Department of Justice shall coordinate with the State Department of Social Services to establish and implement an automated live-scan processing system for fingerprints in the district offices of the Community Care Licensing Division of the State Department of Social Services by July 1, 1999. These live-scan processing units shall be connected to the main system at the Department of Justice by July 1, 1999, and shall become part of that department's pilot project in accordance with its long-range plan. The State Department of Social Services may charge a fee for the costs of processing a set of live-scan fingerprints.



(2) The Department of Justice shall provide a report to the Senate and Assembly fiscal committees, the Assembly Human Services Committee, and to the Senate Health and Human Services Committee by April 15, 1999, regarding the completion of backlogged criminal record clearance requests for all facilities licensed by the department and the progress on implementing the automated live-scan processing system in the district offices pursuant to paragraph (1).

(l) Amendments to the provisions of this section made in the 1998 calendar year shall be implemented commencing 60 days after the effective date of the act amending this section in the 1998 calendar year, except those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation, which shall be implemented commencing January 1, 1999.

SEC. 15. Section 1522.02 is added to the Health and Safety Code, to read:

1522.02. The department may adopt regulations to create substitute employee registries for persons working at more than one facility licensed pursuant to this chapter, Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1569.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30), in order to permit these registries to submit fingerprint cards, and child abuse index information for child care registries so that these facilities have available cleared care staff.

SEC. 16. Section 1522.03 of the Health and Safety Code is amended to read:

1522.03. The Department of Justice may charge a fee sufficient to cover its cost in providing services in accordance with Section 1522 to comply with the 14-day requirement for provision to the department of the criminal record information, as contained in subdivision (c) of Section 1522.

SEC. 17. Section 1522.04 of the Health and Safety Code is amended to read:

1522.04. (a) The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a community care facility, or the other residential care facility, child day care facility, or foster family agency, licensed by the department pursuant to this chapter, Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1569.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30), or certified family home. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice, for fully automating the processing

of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII) to be used for applicant fingerprints. Therefore, when live-scan technology is operational, individuals shall be required to obtain either a criminal record clearance from the Department of Justice or a criminal record exemption from the State Department of Social Services, before their initial presence in a community care facility. The regulations shall also cover the submission of fingerprint information to the Federal Bureau of Investigation.

(b) Upon implementation of an electronic fingerprinting system with terminals located statewide and managed by the Department of Justice, the Department of Justice shall ascertain the criminal history information required pursuant to subdivision (a) of Section 1522.04. If the Department of Justice cannot ascertain the information required pursuant to that subdivision within three working days, the Department of Justice shall notify the State Department of Social Services, or county licensing agencies, either by telephone and by subsequent confirmation in writing by first-class mail, or by electronic or facsimile transmission. At its discretion, the Department of Justice may forward one copy of the fingerprint cards to any other bureau of investigation it may deem necessary in order to verify any record of previous arrests or convictions of the fingerprinted individual.

(c) For purposes of this section, live-scan technology is operational when the Department of Justice and the district offices of the Community Care Licensing Division of the department live-scan sites are operational and the department is receiving 95 percent of its total responses indicating either no evidence of recorded criminal information or evidence of recorded criminal information, from the Department of Justice within three business days.

SEC. 18. Section 1522.1 of the Health and Safety Code is amended to read:

1522.1. Prior to granting a license to, or otherwise approving, any individual to care for children, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The Department of Justice shall maintain and continually update an index of reports of child abuse by providers and shall inform the department of subsequent reports received from the child abuse index pursuant to Section 11170 of the Penal Code and the criminal history. The department shall investigate any reports received from the Child Abuse Registry. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective agency which investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry unless child abuse is substantiated.



SEC. 19. Section 1522.4 of the Health and Safety Code is amended to read:

1522.4. (a) In addition to any other requirements of this chapter and except for foster family homes, small family homes, and certified family homes of foster family agencies, all of the following apply to any community care facility providing 24-hour care for children:

(1) The facility shall have one or more facility managers. "Facility manager," as used in this section, means a person on the premises with the authority and responsibility necessary to manage and control the day-to-day operation of a community care facility and supervise the clients. The facility manager, licensee, and administrator, or any combination thereof, may be the same person provided he or she meets all applicable requirements. If the administrator is also the facility manager for the same facility, this person shall be limited to the administration and management of only one facility.

(2) The facility manager shall have at least one year of experience working with the client group served, or equivalent education or experience, as determined by the department.

(3) A facility manager shall be at the facility at all times when one or more clients are present. To ensure adequate supervision of clients when clients are at the facility outside of their normal schedule, a current telephone number where the facility manager can be reached shall be provided to the clients, licensing agency, school, and any other agency or person as the department determines is necessary. The facility manager shall instruct these agencies and individuals to notify him or her when clients will be returning to the facility outside of the normal hours.

(4) The Legislature intends to upgrade the quality of care in licensed facilities. For the purposes of Sections 1533 and 1534, the licensed facility shall be inspected and evaluated for quality of care at least once each year, without advance notice and as often as necessary, without advance notice, to ensure the quality of care being provided.

Paragraphs (1), (2), and (3) shall apply only to new facilities licensed for six or fewer children which apply for a license after January 1, 1985, and all other new facilities licensed for seven or more children which apply for a license after January 1, 1988. Existing facilities licensed for seven or more children shall comply by January 1, 1989.

(b) No employee of the state or county employed in the administration of this chapter or employed in a position that is in any way concerned with facilities licensed under this chapter shall hold a license or have a direct or indirect financial interest in a facility described in subdivision (a).

The department, by regulation, shall make the determination pursuant to the purposes of this section and chapter, as to what

employment is in the administration of this chapter or in any way concerned with facilities licensed under this chapter and what financial interest is direct or indirect.

This subdivision does not prohibit the state or county from securing a license for, or operating, a facility that is otherwise required to be licensed under this chapter.

(c) (1) No group home or foster family agency licensee, or employee, member of the board of directors, or officer of a group home or foster family agency licensee, shall offer gifts or other remuneration of any type to any employee of the State Department of Social Services or placement agency that exceeds the monetary limits for gifts to employees of the State of California pursuant to Title 9 (commencing with Section 81000) of the Government Code and regulations adopted thereunder by the Fair Political Practices Commission.

(2) No employee of the department or a placement agency shall accept any gift or other remuneration of any type from a group home or foster family agency licensee or employee, member of the board of directors, or officer of a group home or foster family agency licensee that exceeds the monetary limits for gifts to employees of the State of California in Title 9 (commencing with Section 81000) of the Government Code and regulations adopted thereunder by the Fair Political Practices Commission.

(3) Violation of this subdivision is punishable as a misdemeanor.

(4) The Legislature requests that the Judicial Council study whether the California Code of Judicial Ethics should be amended to further limit or bar gifts from group home facilities and foster family agencies to judicial officers and employees of the court and to report its findings to the Legislature by July 1, 1999.

SEC. 20. Section 1522.41 is added to the Health and Safety Code, to read:

1522.41. (a) The director, in consultation and collaboration with county placement officials, group home provider organizations, the Director of Mental Health and the Director of Developmental Services, shall develop and establish a certification program to ensure that administrators of group home facilities have appropriate training to provide the care and services for which a license or certificate is issued.

(b) (1) In addition to any other requirements or qualifications required by the department, an administrator of a group home facility shall successfully complete a department approved certification program pursuant to subdivision (c) prior to employment. An administrator employed in a group home on the effective date of this section shall meet the requirements of paragraph (2) of subdivision (c).



(2) In those cases where the individual is both the licensee and the administrator of a facility, the individual shall comply with all of the licensee and administrator requirements of this section.

(3) Failure to comply with this section shall constitute cause for revocation of the license of the facility.

(4) The licensee shall notify the department within 10 days of any change in administrators.

(c) (1) The administrator certification programs shall require a minimum of 40 hours of classroom instruction that provides training on a uniform core of knowledge in each of the following areas:

(A) Laws, regulations, and policies and procedural standards that impact the operations of the type of facility for which the applicant will be an administrator.

(B) Business operations.

(C) Management and supervision of staff.

(D) Psychosocial and educational needs of the facility residents.

(E) Community and support services.

(F) Physical needs for facility residents.

(G) Administration, storage, misuse, and interaction of medication used by facility residents.

(H) Resident admission, retention, and assessment procedures.

(I) Nonviolent emergency intervention and reporting requirements.

(2) The department shall adopt separate program requirements for initial certification for persons who are employed as group home administrators on the effective date of this section. A person employed as an administrator of a group home facility on the effective date of this section, shall obtain a certificate by completing the training and testing requirements imposed by the department within 12 months of the effective date of the regulations implementing this section. After the effective date of this section, these administrators shall meet the requirements imposed by the department on all other group home administrators for certificate renewal.

(3) Individuals applying for certification under this section shall successfully complete an approved certification program, pass a written test administered by the department within 60 days of completing the program, and submit to the department the documentation required by subdivision (d) within 30 days after being notified of having passed the test. The department may extend these time deadlines for good cause. The department shall notify the applicant of his or her test results within 30 days of administering the test.

(d) The department shall not begin the process of issuing a certificate until receipt of all of the following:

(1) A certificate of completion of the administrator training required pursuant to this chapter.

(2) The fee required for issuance of the certificate. A fee of one hundred dollars (\$100) shall be charged by the department to cover the costs of processing the application for certification.

(3) Documentation from the applicant that he or she has passed the written test.

(4) Submission of fingerprints pursuant to Section 1522. The department may waive the submission for those persons who have a current clearance on file.

(5) That person is at least 21 years of age.

(e) It shall be unlawful for any person not certified under this section to hold himself or herself out as a certified administrator of a group home facility. Any person willfully making any false representation as being a certified administrator or facility manager is guilty of a misdemeanor.

(f) (1) Certificates issued under this section shall be renewed every two years and renewal shall be conditional upon the certificate holder submitting documentation of completion of 40 classroom hours of continuing education related to the core of knowledge specified in subdivision (c). For purposes of this section, an individual who is a group home facility administrator and who is required to complete the continuing education hours required by the regulations of the Department of Developmental Services, and approved by the regional center, may have up to 24 of the required continuing education course hours credited toward the 40-hour continuing education requirement of this section. Community college course hours approved by the regional centers shall be accepted by the department for certification.

(2) Every administrator of a group home facility shall complete the continuing education requirements of this subdivision.

(3) Certificates issued under this section shall expire every two years on the anniversary date of the initial issuance of the certificate, except that any administrator receiving his or her initial certification on or after July 1, 1999, shall make an irrevocable election to have his or her recertification date for any subsequent recertification either on the date two years from the date of issuance of the certificate or on the individual's birthday during the second calendar year following certification. The department shall send a renewal notice to the certificate holder 90 days prior to the expiration date of the certificate. If the certificate is not renewed prior to its expiration date, reinstatement shall only be permitted after the certificate holder has paid a delinquency fee equal to three times the renewal fee and has provided evidence of completion of the continuing education required.

(4) To renew a certificate, the certificate holder shall, on or before the certificate expiration date, request renewal by submitting to the department documentation of completion of the required continuing education courses and pay the renewal fee of one

hundred dollars (\$100), irrespective of receipt of the department's notification of the renewal. A renewal request postmarked on or before the expiration of the certificate shall be proof of compliance with this paragraph.

(5) A suspended or revoked certificate shall be subject to expiration as provided for in this section. If reinstatement of the certificate is approved by the department, the certificate holder, as a condition precedent to reinstatement, shall submit proof of compliance with paragraphs (1) and (2) of subdivision (f), and shall pay a fee in an amount equal to the renewal fee, plus the delinquency fee, if any, accrued at the time of its revocation or suspension. Delinquency fees, if any, accrued subsequent to the time of its revocation or suspension and prior to an order for reinstatement, shall be waived for a period of 12 months to allow the individual sufficient time to complete the required continuing education units and to submit the required documentation. Individuals whose certificates will expire within 90 days after the order for reinstatement may be granted a three-month extension to renew their certificates during which time the delinquency fees shall not accrue.

(6) A certificate that is not renewed within four years after its expiration shall not be renewed, restored, reissued, or reinstated except upon completion of a certification training program, passing any test that may be required of an applicant for a new certificate at that time, and paying the appropriate fees provided for in this section.

(7) A fee of twenty-five dollars (\$25) shall be charged for the reissuance of a lost certificate.

(8) A certificate holder shall inform the department of his or her employment status and change of mailing address within 30 days of any change.

(g) Unless otherwise ordered by the department, the certificate shall be considered forfeited under either of the following conditions:

(1) The department has revoked any license held by the administrator after the department issued the certificate.

(2) The department has issued an exclusion order against the administrator pursuant to Sections 1558, 1568.092, 1569.58, or 1596.8897, after the department issued the certificate, and the administrator did not appeal the exclusion order or, after the appeal, the department issued a decision and order that upheld the exclusion order.

(h) (1) The department, in consultation and collaboration with county placement officials, provider organizations, the State Department of Mental Health, and the State Department of Developmental Services, shall establish, by regulation, the program content, the testing instrument, the process for approving certification training programs, and criteria to be used in authorizing

individuals, organizations, or educational institutions to conduct certification training programs and continuing education courses. The department may also grant continuing education hours for continuing courses offered by accredited educational institutions that are consistent with the requirements in this section. The department may deny vendor approval to any agency or person in any of the following circumstances:

(A) The applicant has not provided the department with evidence satisfactory to the department of the ability of the applicant to satisfy the requirements of vendorization set out in the regulations adopted by the department pursuant to subdivision (j).

(B) The applicant person or agency has a conflict of interest in that the person or agency places its clients in group home facilities.

(C) The applicant public or private agency has a conflict of interest in that the agency is mandated to place clients in group homes and to pay directly for the services. The department may deny vendorization to this type of agency only as long as there are other vendor programs available to conduct the certification training programs and conduct education courses.

(2) The department may authorize vendors to conduct the administrator's certification training program pursuant to this section. The department shall conduct the written test pursuant to regulations adopted by the department.

(3) The department shall prepare and maintain an updated list of approved training vendors.

(4) The department may inspect certification training programs and continuing education courses to determine if content and teaching methods comply with regulations. If the department determines that any vendor is not complying with the requirements of this section, the department shall take appropriate action to bring the program into compliance, which may include removing the vendor from the approved list.

(5) The department shall establish reasonable procedures and timeframes not to exceed 30 days for the approval of vendor training programs.

(6) The department may charge a reasonable fee, not to exceed one hundred fifty dollars (\$150) every two years, to certification program vendors for review and approval of the initial 40-hour training program pursuant to subdivision (c). The department may also charge the vendor a fee, not to exceed one hundred dollars (\$100) every two years, for the review and approval of the continuing education courses needed for recertification pursuant to this subdivision.

(i) The department shall establish a registry for holders of certificates that shall include, at a minimum, information on employment status and criminal record clearance.

(j) Subdivisions (b) to (i), inclusive, shall be implemented upon regulations being adopted by the department, by January 1, 2000.

SEC. 21. Section 1522.42 is added to the Health and Safety Code, to read:

1522.42. (a) The department, in consultation and collaboration with county placement officials, provider organizations, the State Department of Mental Health, and the State Department of Developmental Services, shall adopt regulations that establish standardized training and continuing education curricula for facility managers and direct child care workers in group homes.

(b) The regulations required by subdivision (a) shall specify the date by which new and current employees shall be required to meet the standardized training and continuing education requirements. For persons employed as child care staff and facility managers on the effective date of the regulations, the department shall provide adequate time for these persons to comply with the regulatory requirements.

SEC. 22. Section 1522.43 is added to the Health and Safety Code, to read:

1522.43. (a) (1) For the duties the department imposes on a group home facility administrator in this chapter and in regulations adopted by the department, every group home shall state in its plan of operation, the number of hours per week that the administrator shall spend completing those duties and how the group home administrator shall accomplish those duties, including use of support personnel.

(2) For initial applicants, the information in paragraph (1) shall be contained in the plan of operation submitted to the department in the application.

(3) For current licensees, the licensee shall submit an amended plan of operation that contains the information required by paragraph (1) within six months of the effective date of this section. For changes in the group home administrator duties imposed by the department in this chapter or in regulations, a current licensee shall have six months after the effective date of those duties to submit an amended plan of operation to reflect the new administrator duties.

(b) (1) The department may review a group home's plan of operation to determine if the plan of operation is sufficient to ensure that the facility will operate in compliance with applicable licensing laws and regulations. As part of the review, the department may request that a peer review panel review the plan of operation.

(2) The peer review panel shall consist of two representatives from the department, a qualified group home administrator, an experienced group home provider, and a member or members from the placement agency or agencies that place children in group homes.

(c) A group home shall develop a daily schedule of activities for the children at the facility. The facility shall have this schedule available for inspection by the department. The activities in which the children are scheduled to participate shall be designed to meet the needs of the individual child, and shall be based on that child's needs and services plan.

SEC. 23. Section 1534 of the Health and Safety Code is amended to read:

1534. (a) (1) (A) Every licensed community care facility shall be periodically inspected and evaluated for quality of care by a representative or representatives designated by the director. Evaluations shall be conducted at least once per year and as often as necessary to ensure the quality of care being provided.

(B) In order to facilitate direct contact with group home clients, the department may interview children who are clients of group homes at any public agency or private agency at which the client may be found including, but not limited to, a juvenile hall, recreation or vocational program, or a nonpublic school. The department shall respect the rights of the child while conducting the interview, including informing the child that he or she has the right not to be interviewed and the right to have another adult present during the interview.

(2) The department shall notify the community care facility in writing of all deficiencies in its compliance with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter, and shall set a reasonable length of time for compliance by the facility.

(3) Reports on the results of each inspection, evaluation, or consultation shall be kept on file in the department, and all inspection reports, consultation reports, lists of deficiencies, and plans of correction shall be open to public inspection in the county in which the facility is located.

(b) (1) Nothing in this section shall limit the authority of the department to inspect or evaluate a licensed foster family agency, a certified family home, or any aspect of a program where a licensed community care facility is certifying compliance with licensing requirements.

(2) Upon a finding of noncompliance by the department, the department may require a foster family agency to deny or revoke the certificate of approval of a certified family home, or take other action the department may deem necessary for the protection of a child placed with the family home. The family home shall be afforded the due process provided pursuant to this chapter.

(3) If the department requires a foster family agency to deny or revoke the certificate of approval, the department shall serve an order of denial or revocation upon the certified or prospective foster parent and foster family agency that shall notify the certified or

prospective foster parent of the basis of the department's action and of the certified or prospective foster parent's right to a hearing.

(4) Within 15 days after the department serves an order of denial or revocation, the certified or prospective foster parent may file a written appeal of the department's decision with the department. The department's action shall be final if the certified or prospective foster parent does not file a written appeal within 15 days after the department serves the denial or revocation order.

(5) The department's order of the denial or revocation of the certificate of approval shall remain in effect until the hearing is completed and the director has made a final determination on the merits.

(6) A certified or prospective foster parent who files a written appeal of the department's order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The certified or prospective foster parent shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(7) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. In all proceedings conducted in accordance with this section the standard of proof shall be the preponderance of the evidence.

(8) The department may institute or continue a disciplinary proceeding against a certified or prospective foster parent upon any ground provided by this section, enter an order denying or revoking the certificate of approval, or otherwise take disciplinary action against the certified or prospective foster parent, notwithstanding any resignation, withdrawal of application, surrender of the certificate of approval, or denial or revocation of the certificate of approval by the foster family agency.

(9) A foster family agency's failure to comply with the department's order to deny or revoke the certificate of employment by placing or retaining children in care shall be grounds for disciplining the licensee pursuant to Section 1550.

SEC. 24. Section 1538 of the Health and Safety Code is amended to read:

1538. (a) Any person may request an inspection of any community care facility or certified family home in accordance with this chapter by transmitting to the state department notice of an alleged violation of applicable requirements prescribed by statutes or regulations of this state, including, but not limited to, a denial of access of any person authorized to enter the facility pursuant to Section 9701 of the Welfare and Institutions Code. A complaint may be made either orally or in writing.

(b) The substance of the complaint shall be provided to the licensee or certified family home and foster family agency no earlier than at the time of the inspection. Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the licensee or certified family home and foster family agency nor any copy of the complaint or any record published, released, or otherwise made available to the licensee or certified family home and foster family agency shall disclose the name of any person mentioned in the complaint except the name of any duly authorized officer, employee, or agent of the state department conducting the investigation or inspection pursuant to this chapter.

(c) Upon receipt of a complaint, other than a complaint alleging denial of a statutory right of access to a community care facility or certified family home, the state department shall make a preliminary review and, unless the state department determines that the complaint is willfully intended to harass a licensee or is without any reasonable basis, it shall make an onsite inspection of the community care facility or certified family home within 10 days after receiving the complaint, except where a visit would adversely affect the licensing investigation or the investigation of other agencies. In either event, the complainant shall be promptly informed of the state department's proposed course of action.

If the department determines that the complaint is intended to harass, is without a reasonable basis, or, after a site inspection, is unfounded, then the complaint and any documents related to it shall be marked confidential and shall not be disclosed to the public. If the complaint investigation included a site visit, the licensee or certified family home and foster family agency shall be notified in writing within 30 days of the dismissal that the complaint has been dismissed.

(d) Upon receipt of a complaint alleging denial of a statutory right of access to a community care facility or certified family home, the state department shall review the complaint. The complainant shall be notified promptly of the state department's proposed course of action.

(e) The department shall commence performance of complaint inspections of certified family homes upon the employment of sufficient personnel to carry out this function, and by no later than June 30, 1999. Upon implementation, the department shall notify all licensed foster family agencies.

SEC. 25. Section 1538.5 of the Health and Safety Code is amended to read:

1538.5. (a) (1) Not less than 30 days prior to the anniversary of the effective date of the license of any residential community care facility license, except licensed foster family homes, the department may transmit a copy to the board members of the licensed facility, parents, legal guardians, conservators, client's rights advocate, or placement agency, as designated in each resident's placement

agreement, of all inspection reports given to the facility by the department during the past year as a result of a substantiated complaint regarding a violation of this chapter relating to resident abuse and neglect, food, sanitation, incidental medical care, and residential supervision. During that one-year period the copy of the notices transmitted and the proof of the transmittal shall be open for public inspection.

(2) A group home facility shall maintain, at the facility, a copy of all licensing reports for the past three years that would be accessible to the public through the department, for inspection by placement officials, current and prospective facility clients, and these clients' family members who visit the facility.

(b) The facility operator, at the expense of the facility, shall transmit a copy of all substantiated complaints, by certified mail, to those persons described pursuant to paragraph (1) of subdivision (a) in the following cases:

(1) In the case of any substantiated complaint relating to resident physical or sexual abuse, the facility shall have three days, from the date the facility receives the licensing report from the state department to comply.

(2) In any case in which a facility has received three or more substantiated complaints relating to the same violation during the past 12 months, the facility shall have five days from the date the facility receives the licensing report to comply.

(c) Each residential facility shall retain a copy of the notices transmitted pursuant to subdivision (b) and proof of their transmittal by certified mail for a period of one year after their transmittal.

(d) If any residential facility to which this section applies fails to comply with the provisions of this section, as determined by the state department, the state department shall initiate civil penalty action against the facility in accordance with the provisions of Article 3 (commencing with Section 1530) and the related rules and regulations.

(e) The department shall notify the residential community care facility of its obligation when it is required to comply with this section.

SEC. 26. Section 1548 of the Health and Safety Code is amended to read:

1548. (a) In addition to suspension or revocation of a license issued under this chapter, the department may levy a civil penalty in addition to the penalties of suspension or revocation.

(b) The amount of the civil penalty shall not be less than twenty-five dollars (\$25) or more than fifty dollars (\$50) per day for each violation of this chapter except where the nature or seriousness of the violation or the frequency of the violation warrants a higher penalty or an immediate civil penalty assessment, or both, as determined by the department. In no event, shall a civil penalty assessment exceed one hundred fifty dollars (\$150) per day.

(c) Notwithstanding Section 1534, any facility that is cited for repeating the same violation of this chapter within 12 months of the first violation is subject to an immediate civil penalty of one hundred fifty dollars (\$150) and fifty dollars (\$50) for each day the violation continues until the deficiency is corrected.

(d) Any facility that is assessed a civil penalty pursuant to subdivision (c) which repeats the same violation of this chapter within 12 months of the violation subject to subdivision (c) is subject to an immediate civil penalty of one hundred fifty dollars (\$150) for each day the violation continues until the deficiency is corrected.

(e) The department shall adopt regulations implementing this section.

(f) As provided in Section 11466.31 of the Welfare and Institutions Code, the department may offset civil penalties owed by a group home against moneys to be paid by a county for the care of minors after the group home has exhausted its appeal of the civil penalty assessment. The department shall provide the group home a reasonable opportunity to pay the civil penalty before instituting the offset provision.

SEC. 27. Section 1550 of the Health and Safety Code is amended to read:

1550. The department may deny an application for, or suspend or revoke, any license, or any administrator certificate, issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee or holder of a special permit of this chapter or of the rules and regulations promulgated under this chapter.

(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations promulgated under this chapter.

(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in, or receiving services from, the facility or the people of the State of California.

(d) The conviction of a licensee, or other person mentioned in Section 1522, at any time before or during licensure, of a crime as defined in Section 1522.

(e) The licensee of any facility or the person providing direct care or supervision knowingly allows any child to have illegal drugs or alcohol.

(f) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

SEC. 28. Section 1558 of the Health and Safety Code is amended to read:



1558. (a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1522.

(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

(5) Engaged in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal

of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense pursuant to Section 11506 of the Government Code by the excluded person to conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application, or change of duties by the excluded person, or any discharge, failure to hire, or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1550.

(h) (1) (A) In cases where the excluded person appealed the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder

of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

SEC. 29. Section 1558.1 of the Health and Safety Code is amended to read:

1558.1. (a) (1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an

executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1558 or any other law.

(e) The department may determine not to exclude the person from, or remove the person from the position of a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter



if it has determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances and conditions that either have been corrected or are no longer in existence.

SEC. 30. Section 1563 of the Health and Safety Code is amended to read:

1563. (a) The director shall ensure that licensing personnel at the department have appropriate training to properly carry out this chapter.

(b) The director shall institute a staff development and training program to develop among departmental staff the knowledge and understanding necessary to successfully carry out this chapter. Specifically, the program shall do all of the following:

(1) Provide staff with 36 hours of training per year that reflects the needs of persons served by community care facilities. This training shall, where appropriate, include specialized instruction in the needs of foster children, persons with mental disorders, or developmental or physical disabilities, or other groups served by specialized community care facilities.

(2) Give priority to applications for employment from persons with experience as care providers to persons served by community care facilities.

(3) Provide new staff with comprehensive training within the first six months of employment. This comprehensive training shall, at a minimum, include the following core areas: administrative action process, client populations, conducting facility visits, cultural awareness, documentation skills, facility operations, human relation skills, interviewing techniques, investigation processes, and regulation administration.

(c) In addition to the requirements in subdivision (b), group home and foster family agency licensing personnel shall receive a minimum of 24 hours of training per year to increase their understanding of children in group homes, certified homes, and foster family homes. The training shall cover, but not be limited to, all of the following topics:

(1) The types and characteristics of emotionally troubled children.

(2) The high-risk behaviors they exhibit.

(3) The biological, psychological, interpersonal, and social contributors to these behaviors.

(4) The range of management and treatment interventions utilized for these children, including, but not limited to, nonviolent, emergency intervention techniques.

SEC. 31. Section 1568.042 is added to the Health and Safety Code, to read:

1568.042. (a) A corporation that applies for licensure with the department shall list the facilities that any member of the board of

directors, the executive director, or an officer has been licensed to operate, been employed in, or served as a member of the board of directors, the executive director, or an officer.

(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, an executive director, or an officer who is not eligible for licensure pursuant to subdivision (f) of Section 1568.065 and Section 1568.093.

(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, an executive director, or an officer who is not eligible for licensure pursuant to subdivision (f) of Section 1568.065 and Section 1568.093.

(d) Prior to instituting an administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee, and shall give the applicant or licensee 15 days to remove the person from that position.

SEC. 32. Section 1568.082 of the Health and Safety Code is amended to read:

1568.082. (a) The department may suspend or revoke any license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(1) Violation by the licensee of this chapter or of the rules and regulations adopted pursuant to this chapter.

(2) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted pursuant to this chapter.

(3) Conduct which is inimical to the health, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(4) The provision of services beyond the level the facility is authorized to provide, or accepting or retaining residents who require services of a higher level than the facility is authorized to provide.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

(b) The director may temporarily suspend any license, prior to any hearing when, in the opinion of the director, the action is necessary to protect residents of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee of the temporary suspension and the effective date of the temporary suspension, and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the

director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible, but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

(c) In any case where the department orders the licensee to remove a resident who has a health condition or health conditions which cannot be cared for within the limits of the license or special permit or requires inpatient care in a health facility licensed pursuant to Chapter 2 (commencing with Section 1250), the licensee shall do all of the following:

(1) Prepare and submit to the department a written plan for relocation of the client or resident, in a form acceptable to the department.

(2) Comply with all terms and conditions of the approved relocation plan.

(3) Provide any other information as may be required by the department for the proper administration and enforcement of this section.

SEC. 33. Section 1568.09 of the Health and Safety Code is amended to read:

1568.09. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with residents of residential care facilities for persons with a chronic, life-threatening illness may pose a risk to the residents' health and safety.

Therefore, the Legislature supports the use of the fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CIIS), to be used for applicant fingerprints. It is the intent of the Legislature, in enacting this section, to require the fingerprints of those individuals whose contact with community care clients may pose a risk to the clients' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot

grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code. The following shall apply to the criminal record information:

(1) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(2) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services shall cease processing the application until the conclusion of the trial.

(3) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(4) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(5) An applicant and any other person specified in subdivision (b) shall submit to the Department of Justice a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by this subdivision. If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to subdivision (a) of Section 1568.82. The department may also suspend the license pending an administrative hearing pursuant to subdivision (b) of Section 1568.82.

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff of the facility.

(2) Any person, other than a resident, residing in the facility.

(3) Any person who provides resident assistance in dressing, grooming, bathing, or personal hygiene.



(4) (A) Any staff person, volunteer, or employee who has contact with the residents.

(B) A volunteer shall be exempt from the requirements of this subdivision if he or she is a relative, significant other, or close friend of a client receiving care in the facility and the volunteer does not provide direct care and supervision of residents. A volunteer who provides direct care and supervision shall be exempt if the volunteer is a resident's spouse, significant other, close friend, or family member and provides direct care and supervision to that resident only at the request of the resident.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in that capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) (1) (A) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential care facility, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints, for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with paragraph (1) of subdivision (g), prior to the person's employment, residence, or initial presence in the residential care facility.

(B) These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints and submitted to the Department of Justice by the licensee or sent by electronic transmission in a manner approved by the State Department of Social Services. A licensee's failure to submit fingerprints to the Department of Justice, or to comply with paragraph (1) of subdivision (g), as required in this section, shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation. The State Department of Social Services may assess civil penalties for continued violations as allowed in Section 1568.0822. The fingerprints shall then be submitted to the State Department of Social Services for processing. The licensee shall maintain and make available for inspection documentation of the individual's clearance or exemption.

(2) (A) Paragraph (1) shall cease to be implemented when the State Department of Social Services adopts emergency regulations



pursuant to Section 1522.04, and shall become inoperative when those regulations become final.

(B) A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation. The department may assess civil penalties for continued violations as permitted by Section 1568.0822.

(3) Within 14 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and shall notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal history record.

(4) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, or 273d, subdivision (a) or (b) of Section 368 of the Penal Code, or a felony, the department shall notify the licensee to act immediately to terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the department, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility, or bar the person from entering the residential care facility; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1568.082.



(5) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(6) Concurrently with notifying the licensee pursuant to paragraph (4), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (4).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting that person to withdraw his or her plea of guilty and to enter a plea of not guilty, setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to



the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility as specified in paragraphs (4), (5), and (6) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1568.092.

(g) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal records clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal records clearance to be transferred.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment



under Section 1568.092, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) (1) The Department of Justice shall charge a fee sufficient to cover its cost in providing services to comply with the 14-day requirement contained in subdivision (c) for provision to the department of criminal record information.

(2) Paragraph (1) shall cease to be implemented when the department adopts emergency regulations pursuant to Section 1522.04, and shall become inoperative when permanent regulations are adopted under that section.

(j) Amendments to the provisions of this section made in the 1998 calendar year shall be implemented commencing 60 days after the effective date of the act amending this section in the 1998 calendar year, except those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation, which shall be implemented commencing January 1, 1999.

SEC. 34. Section 1568.092 of the Health and Safety Code is amended to read:

1568.092. (a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, aided, or permitted the violation by any other person of this chapter or of any rules or regulations adopted under this chapter.

(2) Engaged in conduct which is inimical to the health, welfare, or safety of either an individual, in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1568.09.

(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the action of the department and of the right to an appeal of the excluded person. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order.

If the excluded person fails to file a written appeal within the prescribed time, the action of the department shall be final.

(c) (1) The department may require the immediate removal of an executive director, a board member, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective

employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application or change of duties by the excluded person, or any discharge, failure to hire or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1568.082.

(h) (1) (A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

SEC. 35. Section 1568.093 of the Health and Safety Code is amended to read:

1568.093. (a) (1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30)

and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove him or her as, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove him or her as, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove him or her as, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her as, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove him or her as, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove him or her as, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her as, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.



(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove him or her as, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1568.092 or any other law.

(e) The department may determine not to exclude the person from, and remove from being a member of the board of directors, an executive director, or officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances and conditions that either have been corrected or are no longer in existence.

SEC. 36. Section 1569.1515 is added to the Health and Safety Code, to read:

1569.1515. (a) A corporation that applies for licensure with the department shall list the facilities that any member of the board of directors, the executive director, or an officer has been licensed to operate, been employed in, or served as a member of the board of directors, the executive director, or an officer.

(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59.

(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1569.16 and 1569.59.

(d) Prior to instituting an administrative action pursuant to either subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee, and shall give the applicant or licensee 15 days to remove the person from that position.

SEC. 37. Section 1569.17 of the Health and Safety Code is amended to read:

1569.17. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a residential care facility for the elderly. The Legislature supports the use of the

fingerprint live-scan technology, as identified in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with clients of residential care facilities for the elderly may pose a risk to the clients' health and safety.

(a) Before issuing a license to any person or persons to operate or manage a residential care facility for the elderly, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has been exonerated. That criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code. The following shall apply to the criminal record information:

(1) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(2) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b) is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services shall cease processing the application until the conclusion of the trial.

(3) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(4) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(5) An applicant and any person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice, for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the

department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1569.50. The department may also suspend the license pending an administrative hearing pursuant to Sections 1569.50 and 1569.51.

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a client, residing in the facility.

(3) Any person who provides client assistance in dressing, grooming, bathing, or personal hygiene.

(4) (A) Any staff person, volunteer, or employee who has frequent and routine contact with the clients.

(B) A volunteer shall be exempt from the requirements of this subdivision if he or she is a relative, significant other, or close friend of a client receiving care in the facility and the volunteer is not used to replace or supplement staff in providing direct care and supervision of clients.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer or other person serving in like capacity.

(6) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) (1) (A) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a residential facility for the elderly, be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal convictions. The licensee shall submit these fingerprints, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, to the Department of Justice, or to comply with paragraph (1) of subdivision (g) prior to the person's employment, residence, or initial presence in the residential care facility for the elderly.

(B) These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints and submitted to the Department of



Justice by the licensee or sent by electronic transmission in a manner approved by the State Department of Social Services. A licensee's failure to submit fingerprints to the Department of Justice, or to comply with paragraph (1) of subdivision (g), as required in this section, shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation. The State Department of Social Services may assess civil penalties for continued violations as permitted by Section 1569.49. The fingerprints shall then be submitted to the State Department of Social Services for processing. Documentation of the individual's clearance or exemption shall be maintained by the licensee and be available for inspection. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. A violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation. The department may assess civil penalties for continued violations as permitted by Section 1569.49.

(2) Within 14 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided for in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social Services with a statement of that fact within 14 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

(3) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the State Department of Social Services, on the basis of the fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, or 273d, subdivision (a) or (b) of Section 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee in writing within 15 calendar days of the receipt of the notification from the Department of Justice to act immediately to terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly. The State Department of Social Services may subsequently grant an exemption

pursuant to subdivision (f). If the conviction was for another crime, except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the residential care facility for the elderly, or bar the person from entering the residential care facility for the elderly; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered by the department. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(4) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to establish the criteria to grant an exemption pursuant to this paragraph.

(5) Concurrently with notifying the licensee pursuant to paragraph (4), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (4).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of the sentence, notwithstanding a subsequent order pursuant to the provisions of Sections 1203.4 and 1203.4a of the Penal Code permitting a person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice or documents admissible in a criminal action pursuant to Section 969b of the Penal Code shall be prima facie evidence of the conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.



(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license as specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a residential care facility for the elderly as specified in paragraphs (4), (5), and (6) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code. The director shall notify in writing the licensee or the applicant of his or her decision within 60 days of receipt of all information from the applicant and other sources determined necessary by the director for the rendering of a decision pursuant to this subdivision.

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1569.58.

(g) (1) For purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to

another state licensing district office. The request shall be submitted, in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal records clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal records clearances to be transferred under this section.

(h) If a licensee or facility is required by law to deny employment or to terminate employment of any employee based on written notification from the state department that the employee has a prior criminal conviction or is determined unsuitable for employment under Section 1569.58, the licensee or facility shall not incur civil liability or unemployment insurance liability as a result of that denial or termination.

(i) Amendments to the provisions of this section made in the 1998 calendar year shall be implemented commencing 60 days after the effective date of the act amending this section in the 1998 calendar year, except those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation, which shall be implemented commencing January 1, 1999.

SEC. 38. Section 1569.172 of the Health and Safety Code is amended to read:

1569.172. The Department of Justice may charge a fee sufficient to cover its cost in providing services in accordance with Section 1569.17 to comply with the 14-day requirement for provision to the department of the criminal record information, as contained in subdivision (c) of Section 1569.17.

SEC. 39. Section 1569.50 of the Health and Safety Code is amended to read:

1569.50. The department may deny an application for a license or may suspend or revoke any license issued under this chapter upon any of the following grounds and in the manner provided in this chapter:

(a) Violation by the licensee of this chapter or of the rules and regulations adopted under this chapter.

(b) Aiding, abetting, or permitting the violation of this chapter or of the rules and regulations adopted under this chapter.

(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of the State of California.

(d) The conviction of a licensee, or other person mentioned in Section 1569.17 at any time before or during licensure, of a crime as defined in Section 1569.17.

(e) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

The director may temporarily suspend any license, prior to any hearing when, in the opinion of the director, the action is necessary to protect residents or clients of the facility from physical or mental abuse, abandonment, or any other substantial threat to health or safety. The director shall notify the licensee of the temporary suspension and the effective date of the temporary suspension and at the same time shall serve the provider with an accusation. Upon receipt of a notice of defense to the accusation by the licensee, the director shall, within 15 days, set the matter for hearing, and the hearing shall be held as soon as possible but not later than 30 days after receipt of the notice. The temporary suspension shall remain in effect until the time the hearing is completed and the director has made a final determination on the merits. However, the temporary suspension shall be deemed vacated if the director fails to make a final determination on the merits within 30 days after the original hearing has been completed.

SEC. 40. Section 1569.58 of the Health and Safety Code is amended to read:

1569.58. (a) The department may prohibit any person from being a member of the board of directors, an executive director, a board member, or an officer of a licensee, or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1569.17.

(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent

appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility the department shall serve an order of immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense by the excluded person pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a written appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing

of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, an executive director, or an officer of a licensee, or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application or change of duties by the excluded person, or any discharge, failure to hire or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1569.50.

(h) (1) (A) In cases where the excluded person appealed the exclusion order and there is a decision and order of the department upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The



department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

SEC. 41. Section 1569.59 of the Health and Safety Code is amended to read:

1569.59. (a) (1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.



(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1569.58 or any other law.

(e) The department may determine not to exclude a person from, and remove him or her from the position of, a member of the board of directors, an executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has been determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances or conditions that either have been corrected or are no longer in existence.

SEC. 42. Section 1569.617 of the Health and Safety Code is amended to read:

1569.617. (a) (1) There is hereby created in the State Treasury, the Certification Fund from which moneys, upon appropriation of the Legislature, shall be expended by the department for the purpose of administering the residential care facilities for the elderly certification program provided under Sections 1569.23, 1569.615, and 1569.616, the adult residential facilities certification program pursuant to Section 1562.3, and the group home facilities certification program pursuant to Section 1522.41.

(2) All money contained in the Residential Care Facility for the Elderly Fund on the operative date of this paragraph shall be

retained in the Certification Fund for appropriation for the purposes specified in paragraph (1).

(b) The fund shall consist of specific appropriations that the Legislature sets aside for use by the fund and all fees, penalties, and fines collected pursuant to Sections 1522.41, 1562.3, 1562.23, 1569.615, and 1569.616.

(c) For the 1998–99 fiscal year, the sum of not to exceed two hundred fifty thousand dollars (\$250,000) from the Certification Fund shall be appropriated to the State Department of Social Services to administer the group home facilities certification program pursuant to Section 1522.41. The department shall repay the appropriation made for the 1998–99 fiscal year into the Certification Fund upon receipt of fees pursuant to Section 1522.41.

SEC. 43. Section 1596.603 of the Health and Safety Code is amended to read:

1596.603. (a) Each person initiating a background examination to be a trustline provider shall either obtain two sets of fingerprints from a law enforcement agency or other local agency on a fingerprint card authorized by the Department of Justice and shall submit the fingerprints, or send his or her fingerprints to the Department of Justice by electronic transmission in a manner approved by the department, unless exempted in subdivision (e), and a completed trustline application to the department, or the local child care resource and referral agency which will immediately forward the application package to the department. The agency taking the fingerprints shall inscribe the serial number from the identification card described in Section 1596.601 on the fingerprint cards.

(b) A law enforcement agency or other local agency authorized to take fingerprints may charge a reasonable fee to offset the costs of fingerprinting for the purposes of this chapter.

(c) Upon receipt, the department shall transmit the fingerprint card and a copy of the application to the Department of Justice. The Department of Justice shall use the fingerprints and the application to search the state and Federal Bureau of Investigation criminal history information pursuant to Section 1596.871 and the automated child abuse system pursuant to subdivision (b) of Section 1596.877.

(d) A person who is a current licensee or employee in a facility licensed by the department need not submit fingerprints to the department and may transfer their criminal record clearance pursuant to subdivision (h) of Section 1596.871. The person shall instead submit to the department, along with the person's application, a copy of the person's identification card described in Section 1596.601 and sign a declaration verifying the person's identity. A willful false declaration is a violation of this subdivision punishable in the same manner as provided under Section 1596.890.

SEC. 44. Section 1596.871 of the Health and Safety Code is amended to read:

1596.871. The Legislature recognizes the need to generate timely and accurate positive fingerprint identification of applicants as a condition of issuing licenses, permits, or certificates of approval for persons to operate or provide direct care services in a child care center or family child care home. Therefore, the Legislature supports the use of the fingerprint live-scan technology, as defined in the long-range plan of the Department of Justice for fully automating the processing of fingerprints and other data by the year 1999, otherwise known as the California Crime Information Intelligence System (CAL-CII), to be used for applicant fingerprints. It is the intent of the Legislature in enacting this section to require the fingerprints of those individuals whose contact with child day care facility clients may pose a risk to the children's health and safety.

(a) Before issuing a license or special permit to any person to operate or manage a day care facility, the department shall secure from an appropriate law enforcement agency a criminal record to determine whether the applicant or any other person specified in subdivision (b) has ever been convicted of a crime other than a minor traffic violation or arrested for any crime specified in Section 290 of the Penal Code, for violating Section 245 or 273.5, subdivision (b) of Section 273a or, prior to January 1, 1994, paragraph (2) of Section 273a of the Penal Code, or for any crime for which the department cannot grant an exemption if the person was convicted and the person has not been exonerated. That criminal history information shall include the full criminal record, if any, of those persons, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code. No fee shall be charged by the Department of Justice or the department for the fingerprinting of an applicant who will serve six or fewer children or any family day care applicant for a license, or for obtaining a criminal record of an applicant pursuant to this section. The following shall apply to the criminal record information:

(1) If the State Department of Social Services finds that the applicant or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (f).

(2) If the State Department of Social Services finds that the applicant, or any person specified in subdivision (b), is awaiting trial for a crime other than a minor traffic violation, the State Department of Social Services shall cease processing the application until the conclusion of the trial.

(3) If no criminal record information has been recorded, the Department of Justice shall provide the applicant and the State Department of Social Services with a statement of that fact.

(4) If the State Department of Social Services finds after licensure that the licensee, or any other person specified in paragraph (2) of subdivision (b), has been convicted of a crime other than a minor

traffic violation, the license may be revoked, unless the director grants an exemption pursuant to subdivision (f).

(5) An applicant and any person specified in subdivision (b) shall submit a second set of fingerprints to the Department of Justice, for the purpose of searching the records of the Federal Bureau of Investigation, in addition to the search required by subdivision (a). If an applicant meets all other conditions for licensure, except receipt of the Federal Bureau of Investigation's criminal history information for the applicant and persons listed in subdivision (b), the department may issue a license if the applicant and each person described by subdivision (b) has signed and submitted a statement that he or she has never been convicted of a crime in the United States, other than a traffic infraction as defined in paragraph (1) of subdivision (a) of Section 42001 of the Vehicle Code. If, after licensure, the department determines that the licensee or person specified in subdivision (b) has a criminal record, the license may be revoked pursuant to Section 1596.885. The department may also suspend the license pending an administrative hearing pursuant to Section 1596.886.

(b) In addition to the applicant, this section shall be applicable to criminal convictions of the following persons:

(1) Adults responsible for administration or direct supervision of staff.

(2) Any person, other than a child, residing in the facility.

(3) Any person who provides care and supervision to the children.

(4) Any staff person, volunteer, or employee who has contact with the children. A volunteer shall be exempt from the requirements of this subdivision if the volunteer is a relative of a client in care at the facility and is not used to replace or supplement staff in providing direct care and supervision of children in care.

(5) If the applicant is a firm, partnership, association, or corporation, the chief executive officer, other person serving in like capacity, or a person designated by the chief executive officer as responsible for the operation of the facility, as designated by the applicant agency.

(6) If the applicant is a local educational agency, the president of the governing board, the school district superintendent, or a person designated to administer the operation of the facility, as designated by the local educational agency.

(7) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(8) This section does not apply to employees of child care and development programs under contract with the State Department

of Education who have completed a criminal records clearance as part of an application to the Commission on Teacher Credentialing, and who possess a current credential or permit issued by the commission, including employees of child care and development programs that serve both children subsidized under, and children not subsidized under, a State Department of Education contract. The Commission on Teacher Credentialing shall notify the department upon revocation of a current credential or permit issued to an employee of a child care and development program under contract with the State Department of Education.

(9) This section does not apply to employees of a child care and development program operated by a school district, county office of education, or community college district under contract with the State Department of Education who have completed a criminal records clearance as a condition of employment. The school district, county office of education, or community college district upon receiving information that the status of an employee's criminal record clearance has changed shall submit that information to the department.

(c) (1) (A) Subsequent to initial licensure, any person specified in subdivision (b) and not exempted from fingerprinting shall, as a condition to employment, residence, or presence in a child day care facility be fingerprinted and sign a declaration under penalty of perjury regarding any prior criminal conviction. The licensee shall submit these fingerprints to the Department of Justice, along with a second set of fingerprints for the purpose of searching the records of the Federal Bureau of Investigation, or to comply with paragraph (1) of subdivision (h), prior to the person's employment, residence, or initial presence in the child day care facility.

(B) These fingerprints shall be on a card provided by the State Department of Social Services for the purpose of obtaining a permanent set of fingerprints and submitted to the Department of Justice by the licensee or sent by electronic transmission in a manner approved by the State Department of Social Services. A licensee's failure to submit fingerprints to the Department of Justice, or to comply with paragraph (1) of subdivision (h), as required in this section, shall result in the citation of a deficiency, and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation. The State Department of Social Services may assess civil penalties for continued violations permitted by Section 1596.99 and Section 1597.62. The fingerprints shall then be submitted to the State Department of Social Services for processing. Within 14 calendar days of the receipt of the fingerprints, the Department of Justice shall notify the State Department of Social Services of the criminal record information, as provided in this subdivision. If no criminal record information has been recorded, the Department of Justice shall provide the licensee and the State Department of Social



Services with a statement of that fact within 14 calendar days of receipt of the fingerprints. If new fingerprints are required for processing, the Department of Justice shall, within 14 calendar days from the date of receipt of the fingerprints, notify the licensee that the fingerprints were illegible.

(C) Documentation of the individual's clearance or exemption shall be maintained by the licensee, and shall be available for inspection. When live-scan technology is operational, as defined in Section 1522.04, the Department of Justice shall notify the department, as required by that section, and notify the licensee by mail within 14 days of electronic transmission of the fingerprints to the Department of Justice, if the person has no criminal record. Any violation of the regulations adopted pursuant to Section 1522.04 shall result in the citation of a deficiency and an immediate assessment of civil penalties in the amount of one hundred dollars (\$100) per violation. The department may assess civil penalties for continued violations, as permitted by Sections 1596.99 and 1597.62.

(2) Except for persons specified in paragraph (2) of subdivision (b), the licensee shall endeavor to ascertain the previous employment history of persons required to be fingerprinted under this subdivision. If it is determined by the department, on the basis of fingerprints submitted to the Department of Justice, that the person has been convicted of a sex offense against a minor, an offense specified in Section 243.4, 273a, or 273d, subdivision (a) or (b) of Section 368 of the Penal Code, or a felony, the State Department of Social Services shall notify the licensee to act immediately to terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility. The department may subsequently grant an exemption pursuant to subdivision (f). If the conviction was for another crime except a minor traffic violation, the licensee shall, upon notification by the State Department of Social Services, act immediately to either (1) terminate the person's employment, remove the person from the child day care facility, or bar the person from entering the child day care facility; or (2) seek an exemption pursuant to subdivision (f). The department shall determine if the person shall be allowed to remain in the facility until a decision on the exemption is rendered. A licensee's failure to comply with the department's prohibition of employment, contact with clients, or presence in the facility as required by this paragraph shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886.

(3) The department may issue an exemption on its own motion pursuant to subdivision (f) if the person's criminal history indicates that the person is of good character based on the age, seriousness, and frequency of the conviction or convictions. The department, in consultation with interested parties, shall develop regulations to

establish the criteria to grant an exemption pursuant to this paragraph.

(4) Concurrently with notifying the licensee pursuant to paragraph (3), the department shall notify the affected individual of his or her right to seek an exemption pursuant to subdivision (f). The individual may seek an exemption only if the licensee terminates the person's employment or removes the person from the facility after receiving notice from the department pursuant to paragraph (3).

(d) (1) For purposes of this section or any other provision of this chapter, a conviction means a plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action which the department is permitted to take following the establishment of a conviction may be taken when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made suspending the imposition of sentence, notwithstanding a subsequent order pursuant to Sections 1203.4 and 1203.4a of the Penal Code permitting the person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or indictment. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction. For purposes of this section or any other provision of this chapter, the arrest disposition report certified by the Department of Justice, or documents admissible in a criminal action pursuant to Section 969b of the Penal Code, shall be prima facie evidence of conviction, notwithstanding any other provision of law prohibiting the admission of these documents in a civil or administrative action.

(2) For purposes of this section or any other provision of this chapter, the department shall consider criminal convictions from another state or federal court as if the criminal offense was committed in this state.

(e) The State Department of Social Services shall not use a record of arrest to deny, revoke, or terminate any application, license, employment, or residence unless the department investigates the incident and secures evidence, whether or not related to the incident of arrest, that is admissible in an administrative hearing to establish conduct by the person that may pose a risk to the health and safety of any person who is or may become a client. The State Department of Social Services is authorized to obtain any arrest or conviction records or reports from any law enforcement agency as necessary to the performance of its duties to inspect, license, and investigate community care facilities and individuals associated with a community care facility.

(f) (1) After review of the record, the director may grant an exemption from disqualification for a license or special permit as

specified in paragraphs (1) and (4) of subdivision (a), or for employment, residence, or presence in a child day care facility as specified in paragraphs (3), (4), and (5) of subdivision (c) if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of good character so as to justify issuance of the license or special permit or granting an exemption for purposes of subdivision (c). However, no exemption shall be granted pursuant to this subdivision if the conviction was for an offense specified in Section 220, 243.4, or 264.1, subdivision (a) of Section 273a or, prior to January 1, 1994, paragraph (1) of Section 273a, Section 273d, 288, or 289, subdivision (a) of Section 290, or subdivision (a) or (b) of Section 368 of the Penal Code, or was a conviction of another crime against an individual specified in subdivision (c) of Section 667.5 of the Penal Code.

(2) The department shall not prohibit a person from being employed or having contact with clients in a facility on the basis of a denied criminal record exemption request or arrest information unless the department complies with the requirements of Section 1596.8897.

(g) Upon request of the licensee, who shall enclose a self-addressed stamped postcard for this purpose, the Department of Justice shall verify receipt of the fingerprints.

(h) (1) For the purposes of compliance with this section, the department may permit an individual to transfer a current criminal records clearance, as defined in subdivision (a), from one facility to another, as long as the criminal record clearance has been processed through a state licensing district office, and is being transferred to another state licensing district office. The request shall be in writing to the department, and shall include a copy of the person's driver's license or valid identification card issued by the Department of Motor Vehicles, or a valid photo identification issued by another state or the United States government if the person is not a California resident. Upon request of the licensee, who shall enclose a self-addressed stamped envelope for this purpose, the department shall verify whether the individual has a clearance that can be transferred.

(2) The State Department of Social Services shall hold criminal records clearances in its active files for a minimum of two years after an employee is no longer employed at a licensed facility in order for the criminal records clearances to be transferred.

(i) Amendments to this section made in the 1998 calendar year shall be implemented commencing 60 days after the effective date of the act amending this section in the 1998 calendar year, except those provisions for the submission of fingerprints for searching the records of the Federal Bureau of Investigation, which shall be implemented commencing January 1, 1999.

SEC. 45. Section 1596.8713 of the Health and Safety Code is amended to read:

1596.8713. The Department of Justice may charge a fee sufficient to cover its costs in providing services in accordance with Section 1596.871 to comply with the 14-day requirement for provision to the department of the criminal record information, as contained in subdivision (c) of Section 1569.871.

SEC. 46. Section 1596.877 of the Health and Safety Code is amended to read:

1596.877. (a) Prior to granting a license to, or otherwise approving, any family day care home, the department shall check the child abuse and neglect complaint records of the child protective services agency of the county in which the applicant has resided for the two years preceding the application.

(b) Prior to granting a license to or otherwise approving any individual to care for children in either a family day care home or a day care center, the department shall check the Child Abuse Registry pursuant to paragraph (3) of subdivision (b) of Section 11170 of the Penal Code. The Department of Justice shall maintain and continually update an index of reports of child abuse by providers and shall inform the department of subsequent reports received from the child abuse index pursuant to Section 11170 of the Penal Code and the criminal history.

(c) The department shall investigate any reports received from the Child Abuse Registry and investigate any information received from the county child protective services agency. However, child protective services agency information arising from a report designated as “unfounded,” as defined pursuant to subdivision (a) of Section 11165.12 of the Penal Code, shall not be included in the investigation. The investigation shall include, but not be limited to, the review of the investigation report and file prepared by the child protective services agency that investigated the child abuse report. The department shall not deny a license based upon a report from the Child Abuse Registry or based on child abuse and neglect complaint records of the county child protective services agency unless child abuse is substantiated.

(d) On and after January 1, 1993, the department shall implement this section for records maintained by counties that have automated their child abuse and neglect complaint records on or before January 1, 1993. On and after July 1, 1993, the department shall implement this section for records maintained by all counties.

SEC. 47. Section 1596.885 of the Health and Safety Code is amended to read:

1596.885. The department may deny an application for or suspend or revoke any license, registration, or special permit issued under this act upon any of the following grounds and in the manner provided in this act:

(a) Violation by the licensee, registrant, or holder of a special permit of this act or of the rules and regulations promulgated under this act.

(b) Aiding, abetting, or permitting the violating of this act or of the rules and regulations promulgated under this act.

(c) Conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility or the people of this state.

(d) The conviction of a licensee, or other person specified in Section 1596.871, at any time before or during licensure, of a crime as defined in Section 1596.871.

(e) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

SEC. 48. Section 1596.8897 of the Health and Safety Code is amended to read:

1596.8897. (a) The department may prohibit any person from being a member of the board of directors, an executive director, or an officer of a licensee or a licensee from employing, or continuing the employment of, or allowing in a licensed facility, or allowing contact with clients of a licensed facility by, any employee, prospective employee, or person who is not a client who has:

(1) Violated, or aided or permitted the violation by any other person of, any provisions of this chapter or of any rules or regulations promulgated under this chapter.

(2) Engaged in conduct which is inimical to the health, morals, welfare, or safety of either an individual in or receiving services from the facility, or the people of the State of California.

(3) Been denied an exemption to work or to be present in a facility, when that person has been convicted of a crime as defined in Section 1596.871.

(4) Engaged in any other conduct which would constitute a basis for disciplining a licensee.

(5) Engaging in acts of financial malfeasance concerning the operation of a facility, including, but not limited to, improper use or embezzlement of client moneys and property or fraudulent appropriation for personal gain of facility moneys and property, or willful or negligent failure to provide services for the care of clients.

(b) The excluded person, the facility, and the licensee shall be given written notice of the basis of the department's action and of the excluded person's right to an appeal. The notice shall be served either by personal service or by registered mail. Within 15 days after the department serves the notice, the excluded person may file with the department a written appeal of the exclusion order. If the excluded

person fails to file a written appeal within the prescribed time, the department's action shall be final.

(c) (1) The department may require the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility pending a final decision of the matter, when, in the opinion of the director, the action is necessary to protect residents or clients from physical or mental abuse, abandonment, or any other substantial threat to their health or safety.

(2) If the department requires the immediate removal of a member of the board of directors, an executive director, or an officer of a licensee or exclusion of an employee, prospective employee, or person who is not a client from a facility, the department shall serve an order of immediate exclusion upon the excluded person which shall notify the excluded person of the basis of the department's action and of the excluded person's right to a hearing.

(3) Within 15 days after the department serves an order of immediate exclusion, the excluded person may file a written appeal of the exclusion with the department. The department's action shall be final if the excluded person does not appeal the exclusion within the prescribed time. The department shall do the following upon receipt of a written appeal:

(A) Within 30 days of receipt of the appeal, serve an accusation upon the excluded person.

(B) Within 60 days of receipt of a notice of defense by the employee or prospective employee pursuant to Section 11506 of the Government Code, conduct a hearing on the accusation.

(4) An order of immediate exclusion of the excluded person from the facility shall remain in effect until the hearing is completed and the director has made a final determination on the merits. However, the order of immediate exclusion shall be deemed vacated if the director fails to make a final determination on the merits within 60 days after the original hearing has been completed.

(d) An excluded person who files a appeal of the exclusion order with the department pursuant to this section shall, as part of the written request, provide his or her current mailing address. The excluded person shall subsequently notify the department in writing of any change in mailing address, until the hearing process has been completed or terminated.

(e) Hearings held pursuant to this section shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Division 3 of Title 2 of the Government Code. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department.

(f) The department may institute or continue a disciplinary proceeding against a member of the board of directors, an executive

director, or an officer of a licensee or an employee, prospective employee, or person who is not a client upon any ground provided by this section, or enter an order prohibiting any person from being a member of the board of directors, the executive director, or an officer of a licensee or the excluded person's employment or presence in the facility or otherwise take disciplinary action against the excluded person, notwithstanding any resignation, withdrawal of employment application or change of duties by the excluded person, or any discharge, failure to hire or reassignment of the excluded person by the licensee or that the excluded person no longer has contact with clients at the facility.

(g) A licensee's failure to comply with the department's exclusion order after being notified of the order shall be grounds for disciplining the licensee pursuant to Section 1596.885 or 1596.886.

(h) (1) (A) In cases where the excluded person appealed the exclusion order and there is a decision and order upholding the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or from being a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement one year after the effective date of the decision and order of the department upholding the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the decision and order.

(2) (A) In cases where the department informed the excluded person of his or her right to appeal the exclusion order and the excluded person did not appeal the exclusion order, the person shall be prohibited from working in any facility or being licensed to operate any facility licensed by the department or a certified foster parent for the remainder of the excluded person's life, unless otherwise ordered by the department.

(B) The excluded individual may petition for reinstatement after one year has elapsed from the date of the notification of the exclusion order pursuant to Section 11522 of the Government Code. The department shall provide the excluded person with a copy of Section 11522 of the Government Code with the exclusion order.

SEC. 49. Section 1596.8898 of the Health and Safety Code is amended to read:

1596.8898. (a) (1) If the department determines that a person was issued a license under this chapter or under Chapter 1 (commencing with Section 1200), Chapter 2 (commencing with Section 1250), Chapter 3.01 (commencing with Section 1568.01), Chapter 3.2 (commencing with Section 1569), Chapter 3.4 (commencing with Section 1596.70), Chapter 3.5 (commencing with

Section 1596.90), or Chapter 3.6 (commencing with Section 1597.30) and the prior license was revoked within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to the chapter.

(2) If the department determines that a person previously was issued a certificate of approval by a foster family agency which was revoked by the department pursuant to subdivision (b) of Section 1534 within the preceding two years, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter.

(b) If the department determines that the person had previously applied for a license under any of the chapters listed in paragraph (1) of subdivision (a) and the application was denied within the last year, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(c) If the department determines that the person had previously applied for a certificate of approval with a foster family agency and the department ordered the foster family agency to deny the application pursuant to subdivision (b) of Section 1534, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter and as follows:

(1) In cases where the applicant petitioned for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, the executive



director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the effective date of the decision and order of the department upholding a denial.

(2) In cases where the department informed the applicant of his or her right to petition for a hearing and the applicant did not petition for a hearing, the department shall exclude the person from, and remove the person from the position of a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter until one year has elapsed from the date of the notification of the denial and the right to petition for a hearing.

(d) Exclusion or removal of an individual pursuant to this section shall not be considered an order of exclusion for purposes of Section 1598.8897 or any other law.

(e) The department may determine not to exclude a person from, or remove him or her from the position of, a member of the board of directors, the executive director, or an officer of a licensee of, any facility licensed by the department pursuant to this chapter if it has been determined that the reasons for the denial of the application or revocation of the facility license or certificate of approval were due to circumstances or conditions that either have been corrected or are no longer in existence.

SEC. 50. Section 1596.952 is added to the Health and Safety Code, to read:

1596.952. (a) A corporation that applies for licensure with the department shall list the facilities that any member of the board of directors, the executive director, or an officer that has been licensed to operate, been employed in or served as a member of the board of directors, the executive director, or an officer.

(b) The department shall not issue a provisional license or license to any corporate applicant that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1596.851 and 1596.8898.

(c) The department may revoke the license of any corporate licensee that has a member of the board of directors, the executive director, or an officer who is not eligible for licensure pursuant to Sections 1596.851 and 1596.8898.

(d) Prior to instituting an administrative action pursuant to subdivision (b) or (c), the department shall notify the applicant or licensee of the person's ineligibility to be a member of the board of directors, an executive director, or an officer of the applicant or licensee. The licensee has 15 days to remove the person from that position if the person does not have client contact, or immediately upon notification if the person has client contact.

SEC. 51. Section 11174.3 of the Penal Code is amended to read:

11174.3. (a) Whenever a representative of a child protective agency or the State Department of Social Services deems it necessary, a suspected victim of child abuse may be interviewed during school hours, on school premises, concerning a report of suspected child abuse that occurred within the child's home or out-of-home care facility. The child shall be afforded the option of being interviewed in private or selecting any adult who is a member of the staff of the school, including any certificated or classified employee or volunteer aide, to be present at the interview. A representative of the child protective agency or the State Department of Social Services shall inform the child of that right prior to the interview.

The purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible. However, the member of the staff so elected shall not participate in the interview. The member of the staff so present shall not discuss the facts or circumstances of the case with the child. The member of the staff so present, including, but not limited to, a volunteer aide, is subject to the confidentiality requirements of this article, a violation of which is punishable as specified in Section 11167.5. A representative of the school shall inform a member of the staff so selected by a child of the requirements of this section prior to the interview. A staff member selected by a child may decline the request to be present at the interview. If the staff person selected agrees to be present, the interview shall be held at a time during school hours when it does not involve an expense to the school. Failure to comply with the requirements of this section does not affect the admissibility of evidence in a criminal or civil proceeding.

(b) The Superintendent of Public Instruction shall notify each school district and each child protective agency, and the State Department of Social Services shall notify each of its employees who participate in the investigation of reports of child abuse, of the requirements of this section.

SEC. 52. Section 361.21 is added to the Welfare and Institutions Code, to read:

361.21. (a) The court shall not order the placement of a minor in an out-of-state group home, unless the court finds, in its order of placement, that both of the following conditions have been met:

(1) The out-of-state group home is licensed or certified for the placement of minors by an agency of the state in which the minor will be placed.

(2) The out-of-state group home meets the requirements of Section 7911.1 of the Family Code.

(b) At least every six months, the court shall review each placement made pursuant to subdivision (a) in order to determine compliance with that subdivision.



(c) A county shall not be entitled to receive or expend any public funds for the placement of a minor in an out-of-state group home unless the requirements of subdivisions (a) and (b) are met.

SEC. 53. Section 366 of the Welfare and Institutions Code is amended to read:

366. (a) The status of every dependent child in foster care shall be reviewed periodically as determined by the court but no less frequently than once every six months, as calculated from the date of the original dispositional hearing, until the hearing described in Section 366.25 or 366.26 is completed. The court shall determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, the continuing need to suspend sibling interaction, if applicable, pursuant to subdivision (c) of Section 16002, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and shall project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship.

(b) Subsequent to the hearing, periodic reviews of each child in foster care shall be conducted pursuant to the requirements of Sections 366.3 and 16503.

(c) If the child has been placed out of state, each review described in subdivision (a) and any reviews conducted pursuant to Sections 366.3 and 16503 shall also address whether the out-of-state placement continues to be the most appropriate placement selection and in the best interests of the child.

(d) A child shall not be placed in an out-of-state group home, or remain in an out-of-state group home, unless the group home is in compliance with Section 7911.1 of the Family Code.

SEC. 54. Section 727.1 of the Welfare and Institutions Code is amended to read:

727.1. (a) Unless otherwise authorized by law, the court may not order the placement of a minor who is adjudged a ward of the court on the basis that he or she is a person described by either Section 601 or 602 in a private residential facility or program that provides 24-hour supervision, outside of the state, unless the court finds, in its order of placement, that all of the following conditions are met:

(1) In-state facilities or programs have been determined to be unavailable or inadequate to meet the needs of the minor.

(2) The out-of-state residential facility or program is licensed for the placement of minors by an agency of the state or states in which the minor will be placed or operates under and is inspected pursuant to standards comparable to those developed by the Board of Corrections for similar facilities or programs.

(3) The requirements of Section 7911.1 of the Family Code are met.

(b) If, upon inspection, the probation officer of the county in which the minor is adjudged a ward of the court determines that the

out-of-state facility or program is not in compliance with the standards required under paragraph (2) of subdivision (a), the probation officer may temporarily remove the minor from the facility or program. The probation officer shall promptly inform the court of the minor's removal, and shall return the minor to the court for a hearing to review the suitability of continued out-of-state placement.

(c) The court shall review each of these placements for compliance with the requirements of subdivision (a) at least once every six months.

(d) The county shall not be entitled to receive or expend any public funds for the placement of a minor in an out-of-state group home unless the conditions of subdivision (a) and (c) are met.

SEC. 55. Section 827 of the Welfare and Institutions Code is amended to read:

827. (a) (1) Except as provided in Section 828, a petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in that case or made available to the probation officer in making his or her report, or to the judge, referee, or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by the following:

(A) Court personnel.

(B) The district attorney, a city attorney, or city prosecutor authorized to prosecute criminal or juvenile cases under state law.

(C) The minor who is the subject of the proceeding.

(D) His or her parents or guardian.

(E) The attorneys for the parties, and judges, referees, other hearing officers, probation officers and law enforcement officers who are actively participating in criminal or juvenile proceedings involving the minor.

(F) The superintendent or designee of the school district where the minor is enrolled or attending school.

(G) Members of the child protective agencies as defined in Section 11165.9 of the Penal Code.

(H) The State Department of Social Services to carry out its duties pursuant to Division 9 (commencing with Section 10000), and Part 5 (commencing with Section 7900) of Division 12 of the Family Code to oversee and monitor county child welfare agencies, children in foster care or receiving foster care assistance, and out-of-state placements.

(I) To authorized legal staff or special investigators who are peace officers who are employed by, or who are authorized representatives of, the State Department of Social Services, as necessary to the performance of their duties to inspect, license, and investigate community care facilities, and to ensure that the standards of care and services provided in those facilities are adequate and appropriate

and to ascertain compliance with the rules and regulations to which the facilities are subject. The confidential information shall remain confidential except for purposes of inspection, licensing, or investigation pursuant to Chapter 3 (commencing with Section 1500) and Chapter 3.4 (commencing with Section 1596.70) of Division 2 of the Health and Safety Code, or a criminal, civil, or administrative proceeding in relation thereto. The confidential information may be used by the State Department of Social Services in a criminal, civil, or administrative proceeding. The confidential information shall be available only to the judge or hearing officer and to the parties to the case. Names that are confidential shall be listed in attachments separate to the general pleadings. The confidential information shall be sealed after the conclusion of the criminal, civil, or administrative hearings, and shall not subsequently be released except in accordance with this subdivision. If the confidential information does not result in a criminal, civil, or administrative proceeding, it shall be sealed after the State Department of Social Services decides that no further action will be taken in the matter of suspected licensing violations. Except as otherwise provided in this subdivision, confidential information in the possession of the State Department of Social Services shall not contain the name of the minor.

(J) Members of children's multidisciplinary teams, persons or agencies providing treatment or supervision of the minor.

(K) Any other person who may be designated by court order of the judge of the juvenile court upon filing a petition.

(2) Any records or reports relating to a matter within the jurisdiction of the juvenile court prepared by or released by the court, a probation department, or the county department of social services, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be disseminated by the receiving agencies to any persons or agencies, other than those persons or agencies authorized to receive documents pursuant to this section. Further, any of those records or reports, any portion of those records or reports, and information relating to the contents of those records or reports, shall not be made attachments to any other documents without the prior approval of the presiding judge of the juvenile court, unless they are used in connection with and in the course of a criminal investigation or a proceeding brought to declare a person a dependent child or ward of the juvenile court.

(b) (1) While the Legislature reaffirms its belief that juvenile court records, in general, should be confidential, it is the intent of the Legislature in enacting this subdivision to provide for a limited exception to juvenile court record confidentiality to promote more effective communication among juvenile courts, law enforcement agencies, and schools to ensure the rehabilitation of juvenile criminal offenders as well as to lessen the potential for drug use, violence, and other forms of delinquency.



(2) Notwithstanding subdivision (a), written notice that a minor enrolled in a public school, kindergarten to grade 12, inclusive, has been found by a court of competent jurisdiction to have committed any felony or any misdemeanor involving curfew, gambling, alcohol, drugs, tobacco products, carrying of weapons, a sex offense listed in Section 290 of the Penal Code, assault or battery, larceny, vandalism, or graffiti shall be provided by the court, within seven days, to the superintendent of the school district of attendance. Written notice shall include only the offense found to have been committed by the minor and the disposition of the minor's case. This notice shall be expeditiously transmitted by the district superintendent to the principal at the school of attendance. The principal shall expeditiously disseminate the information to those counselors directly supervising or reporting on the behavior or progress of the minor. In addition, the principal may disseminate the information to any teacher or administrator directly supervising or reporting on the behavior or progress of the minor whom the principal believes needs the information to work with the pupil in an appropriate fashion, to avoid being needlessly vulnerable or to protect other persons from needless vulnerability.

Any information received by a teacher, counselor, or administrator under this subdivision shall be received in confidence for the limited purpose of rehabilitating the minor and protecting students and staff, and shall not be further disseminated by the teacher, counselor, or administrator, except insofar as communication with the juvenile, his or her parents or guardians, law enforcement personnel, and the juvenile's probation officer is necessary to effectuate the juvenile's rehabilitation or to protect students and staff.

An intentional violation of the confidentiality provisions of this section is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500).

(3) If a minor is removed from public school as a result of the court's finding described in subdivision (b), the superintendent shall maintain the information in a confidential file and shall defer transmittal of the information received from the court until the minor is returned to public school. If the minor is returned to a school district other than the one from which the minor came, the parole or probation officer having jurisdiction over the minor shall so notify the superintendent of the last district of attendance, who shall transmit the notice received from the court to the superintendent of the new district of attendance.

(c) Each probation report filed with the court concerning a minor whose record is subject to dissemination pursuant to subdivision (b) shall include on the face sheet the school at which the minor is currently enrolled. The county superintendent shall provide the court with a listing of all of the schools within each school district,



within the county, along with the name and mailing address of each district superintendent.

(d) Each notice sent by the court pursuant to subdivision (b) shall be stamped with the instruction: “Unlawful Dissemination Of This Information Is A Misdemeanor.” Any information received from the court shall be kept in a separate confidential file at the school of attendance and shall be transferred to the minor’s subsequent schools of attendance and maintained until the minor graduates from high school, is released from juvenile court jurisdiction, or reaches the age of 18, whichever occurs first. After that time the confidential record shall be destroyed. At any time after the date by which a record required to be destroyed by this section should have been destroyed, the minor or his or her parent or guardian shall have the right to make a written request to the principal of the school that the minor’s school records be reviewed to ensure that the record has been destroyed. Upon completion of any requested review and no later than 30 days after the request for the review was received, the principal or his or her designee shall respond in writing to the written request and either shall confirm that the record has been destroyed or, if the record has not been destroyed, shall explain why destruction has not yet occurred.

Except as provided in paragraph (2) of subdivision (b), no liability shall attach to any person who transmits or fails to transmit any notice or information required under subdivision (b).

SEC. 56. Section 5867.5 is added to the Welfare and Institutions Code, to read:

5867.5. (a) Beginning in the 1998–99 fiscal year, county mental health departments that receive full system of care funding, as determined by the State Department of Mental Health in consultation with counties, shall provide to children served by county social services and probation departments mental health screening, assessment, participation in multidisciplinary placement teams and specialty mental health treatment services for children placed out of home in group care, for those children who meet the definition of medical necessity, to the extent resources are available. These counties shall give first priority to children currently receiving psychoactive medication.

(b) The State Department of Mental Health shall develop, by June 1, 1999, an estimate of the extent to which mental health assessment and treatment resources are available to meet all of the following needs:

(1) Children placed in group care by county departments of social services and probation.

(2) Children placed in out-of-home care by county departments of social services.

(3) Children at risk of placement out of home who are receiving services from county departments of social services or probation.

(c) The estimate required by subdivision (b) shall include identification of specific resource gaps, including human resource gaps, in the delivery of specialty mental health services to children identified by county social services and probation.

(d) The State Department of Mental Health shall develop, with the assistance of the State Department of Social Services and the Judicial Council, with participation by county mental health departments, county health departments, and county social services departments, and in consultation with group home providers and representatives of current or former foster youth and representatives of pediatricians and child and adolescent psychiatrists, by July 1, 1999, a procedure for review of treatment plans for children receiving prescribed psychoactive medication and who are placed in out-of-home care.

SEC. 57. Section 10609.3 of the Welfare and Institutions Code is amended to read:

10609.3. (a) By January 1, 1995, the State Department of Social Services shall complete, in consultation with county Independent Living Program administrators, placement agencies, providers, advocacy groups, and community groups, a comprehensive evaluation of the Independent Living Program established pursuant to the federal Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) and develop recommendations available to the public on how independent living services could better prepare foster youth for independence and adulthood.

(b) The department shall investigate alternative transition housing models for youth between the ages of 17 and 18 who are in out-of-home placements under the supervision of the county department of social services or county probation department. To the extent federal funds are available and it is in the best interests of the children, the department shall develop and implement a transitional housing model for youth who are preparing for emancipation from foster care.

(c) The department shall also investigate alternative transition models for youth discharged from foster care to live on their own. As part of this investigation, the department shall consider the needs of youth for housing, transportation, health care, access to community resources, employment, and other support services.

(d) The department shall, with the approval of the federal government, amend the foster care state plan, provided for pursuant to Subtitle IV-E (commencing with Section 470) of the federal Social Security Act (42 U.S.C. Sec. 670, et seq.), and the child welfare services state plan (42 U.S.C. Sec. 622), to permit all eligible children be served by the Independent Living Program up to the age of 21 years.

SEC. 58. Section 11402 of the Welfare and Institutions Code is amended to read:

11402. In order to be eligible for AFDC-FC, a child shall be placed in one of the following:

(a) The home of a relative, provided the home has been documented by the social worker or probation officer as being suited to the needs of the child and the child is otherwise eligible for federal financial participation in the AFDC-FC payment.

(b) (1) The licensed family home of a nonrelative.

(2) The nonlicensed home of a nonrelative extended family home, when the child is placed pursuant to Section 362.7.

(c) A licensed group home, as defined in subdivision (h) of Section 11400, provided that the placement worker has documented that the placement is necessary to meet the treatment needs of the child and that the facility offers those treatment services.

(d) The home of a nonrelated legal guardian or the home of a former nonrelated legal guardian when the guardianship of a child who is otherwise eligible for AFDC-FC has been dismissed due to the child's attaining 18 years of age.

(e) A home which has been certified by a social worker or probation officer as meeting licensing standards, provided that a family home license has been applied for and has not been denied.

(f) An exclusive-use home.

(g) A licensed transitional housing placement facility as described in Health and Safety Code Section 1559.110 and as defined in Section 11400.

(h) An out-of-state group home, provided that the placement worker, in addition to complying with all other statutory requirements for placing a minor in an out-of-state group home, documents that the requirements of Section 7911.1 of the Family Code have been met.

SEC. 59. Section 11404.5 of the Welfare and Institutions Code is repealed.

SEC. 60. Section 11461 of the Welfare and Institutions Code is amended to read:

11461. (a) For children placed in a licensed or approved family home with a capacity of six or less, or in an approved home of a relative or nonrelated legal guardian, the per child per month rates in the following schedule shall be in effect for the period July 1, 1989, through December 31, 1989:

Age	Basic rate
0-4	\$ 294
5-8	319
9-11	340
12-14	378
15-20	412

(b) (1) Any county that, as of October 1, 1989, has in effect a basic rate that is at the levels set forth in the schedule in subdivision (a), shall continue to receive state participation, as specified in subdivision (c) of Section 15200, at these levels.

(2) Any county that, as of October 1, 1989, has in effect a basic rate that exceeds a level set forth in the schedule in subdivision (a), shall continue to receive the same level of state participation as it received on October 1, 1989.

(c) The amounts in the schedule of basic rates in subdivision (a) shall be adjusted as follows:

(1) Effective January 1, 1990, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 12 percent.

(2) Effective May 1, 1990, any county that did not increase the basic rate by 12 percent on January 1, 1990, shall do both of the following:

(A) Increase the basic rate in effect December 31, 1989, for which state participation is received by 12 percent.

(B) Increase the basic rate, as adjusted pursuant to subparagraph (A) by an additional 5 percent.

(3) (A) Except as provided in subparagraph (B), effective July 1, 1990, for the 1990–91 fiscal year, the amounts in the schedule of basic rates in subdivision (a) shall be increased by an additional 5 percent.

(B) The rate increase required by subparagraph (A) shall not be applied to rates increased May 1, 1990, pursuant to paragraph (2).

(4) Effective July 1, 1998, the amounts in the schedule of basic rates in subdivision (a) shall be increased by 6 percent. Notwithstanding any other provision of law, the 6-percent increase provided for in this paragraph shall, retroactive to July 1, 1998, apply to every county, including any county to which paragraph (2) of subdivision (b) applies, and shall apply to foster care for every age group.

(5) Notwithstanding any other provision of law, any increase that takes effect after July 1, 1998, shall apply to every county, including any county to which paragraph (2) of subdivision (b) applies, and shall apply to foster care for every age group.

(6) The increase in the basic foster family home rate shall apply only to children placed in a licensed foster family home receiving the basic rate or in an approved home of a relative or nonrelated legal guardian receiving the basic rate. The increased rate shall not be used to compute the monthly amount that may be paid to licensed foster family agencies for the placement of children in certified foster homes.

(d) (1) Beginning with the 1991–92 fiscal year, the schedule of basic rates in subdivision (a) shall be adjusted by the percentage changes in the California Necessities Index, computed pursuant to the methodology described in Section 11453, subject to the availability of funds.

(2) Any county that, as of the 1991–92 fiscal year, receives state participation for a basic rate that exceeds the amount set forth in the schedule of basic rates in subdivision (a) shall receive an increase each year in state participation for that basic rate of one-half of the percentage adjustments specified in paragraph (1) until the difference between the county’s adjusted state participation level for its basic rate and the adjusted schedule of basic rates is eliminated.

(3) If a county has, after receiving the adjustments specified in paragraph (2), a state participation level for a basic rate that is below the amount set forth in the adjusted schedule of basic rates for that fiscal year, the state participation level for that rate shall be further increased to the amount specified in the adjusted schedule of basic rates.

(e) (1) As used in this section, “specialized care increment” means an approved amount paid with state participation on behalf of an AFDC-FC child requiring specialized care to a home listed in subdivision (a) in addition to the basic rate. On the effective date of this section, the department shall continue and maintain the current ratesetting system for specialized care.

(2) Any county that, as of the effective date of this section, has in effect specialized care increments that have been approved by the department, shall continue to receive state participation for those payments.

(3) Any county that, as of the effective date of this section, has in effect specialized care increments that exceed the amounts that have been approved by the department, shall continue to receive the same level of state participation as it received on the effective date of this section.

(4) (A) Except for subparagraph (B), beginning January 1, 1990, specialized care increments shall be adjusted in accordance with the methodology for the schedule of basic rates described in subdivision (c). No county shall receive state participation for any increases in a specialized care increment which exceeds the adjustments made in accordance with this methodology.

(B) Notwithstanding subdivision (e) of Section 11460, for the 1993–94 fiscal year, an amount equal to 5 percent of the State Treasury appropriation for family homes shall be added to the total augmentation for the AFDC-FC program in order to provide incentives and assistance to counties in the area of specialized care. This appropriation shall be used, but not limited to, encouraging counties to implement or expand specialized care payment systems, to recruit and train foster parents for the placement of children with specialized care needs, and to develop county systems to encourage the placement of children in family homes. It is the intent of the Legislature that in the use of these funds, federal financial participation shall be claimed whenever possible.

(f) (1) As used in this section, “clothing allowance” means the amount paid with state participation in addition to the basic rate for the provision of additional clothing for an AFDC-FC child, including, but not limited to, an initial supply of clothing and school or other uniforms.

(2) Any county that, as of the effective date of this section, has in effect clothing allowances, shall continue to receive the same level as it received on the effective date of this section.

(3) Beginning January 1, 1990, clothing allowances shall be adjusted annually in accordance with the methodology for the schedule of basic rates described in subdivision (c). No county shall be reimbursed for any increases in clothing allowances which exceed the adjustments made in accordance with this methodology.

SEC. 61. Section 11462 of the Welfare and Institutions Code is amended to read:

11462. (a) (1) Effective July 1, 1990, foster care providers licensed as group homes, as defined in departmental regulations, including public child care institutions, as defined in Section 11402.5, shall have rates established by classifying each group home program and applying the standardized schedule of rates. The department shall collect information from group providers beginning January 1, 1990, in order to classify each group home program.

(2) Notwithstanding paragraph (1), foster care providers licensed as group homes shall have rates established only if the group home is organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400. The department shall terminate the rate effective January 1, 1993, of any group home not organized and operated on a nonprofit basis as required under subdivision (h) of Section 11400.

(b) A group home program shall be initially classified, for purposes of emergency regulations, according to the level of care and services to be provided using a point system developed by the department and described in the report, “The Classification of Group Home Programs under the Standardized Schedule of Rates System,” prepared by the State Department of Social Services, August 30, 1989.

(c) The rate for each rate classification level (RCL) has been determined by the department with data from the AFDC-FC Group Home Rate Classification Pilot Study. The rates effective July 1, 1990, were developed using 1985 calendar year costs and reflect adjustments to the costs for each fiscal year, starting with the 1986–87 fiscal year, by the amount of the California Necessities Index computed pursuant to the methodology described in Section 11453. The data obtained by the department using 1985 calendar year costs shall be updated and revised by January 1, 1993.

(d) As used in this section, “standardized schedule of rates” means a listing of the 14 rate classification levels, and the single rate established for each RCL.

(e) Except as specified in paragraph (1), the department shall determine the RCL for each group home program on a prospective basis, according to the level of care and services that the group home operator projects will be provided during the period of time for which the rate is being established.

(1) (A) For new and existing providers requesting the establishment of an RCL, and for existing group home programs requesting an RCL increase, the department shall determine the RCL no later than 13 months after the effective date of the provisional rate. The determination of the RCL shall be based on a program audit of documentation and other information that verifies the level of care and supervision provided by the group home program during a period of the two full calendar months or 60 consecutive days, whichever is longer, preceding the date of the program audit, unless the group home program requests a lower RCL. The program audit shall not cover the first six months of operation under the provisional rate. Pending the department's issuance of the program audit report that determines the RCL for the group home program, the group home program shall be eligible to receive a provisional rate that shall be based on the level of care and service that the group home program proposes it will provide. The group home program shall be eligible to receive only the RCL determined by the department during the pendency of any appeal of the department's RCL determination.

(B) A group home program may apply for an increase in its RCL no earlier than two years from the date the department has determined the group home program's rate, unless the host county, the primary placing county, or a regional consortium of counties submits to the department in writing that the program is needed in that county, that the provider is capable of effectively and efficiently operating the proposed program, and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(C) To ensure efficient administration of the department's audit responsibilities, and to avoid the fraudulent creation of records, group home programs shall make records that are relevant to the RCL determination available to the department in a timely manner. Except as provided in this section, the department may refuse to consider, for purposes of determining the rate, any documents that are relevant to the determination of the RCL that are not made available by the group home provider by the date the group home provider requests a hearing on the department's RCL determination. The department may refuse to consider for purposes of determining the rate, the following records, unless the group home provider makes the records available to the department during the field work portion of the department's program audit:

(i) Records of each employee's full name, home address, occupation, and social security number.

(ii) Time records showing when the employee begins and ends each work period, meal periods, split shift intervals, and total daily hours worked.

(iii) Total wages paid each payroll period.

(iv) Records required to be maintained by licensed group home providers under the provisions of Title 22 of the California Code of Regulations that are relevant to the RCL determination.

(D) To minimize financial abuse in the startup of group home programs, when the department's RCL determination is more than three levels lower than the RCL level proposed by the group home provider, and the group home provider does not appeal the department's RCL determination, the department shall terminate the rate of a group home program 45 days after issuance of its program audit report. When the group home provider requests a hearing on the department's RCL determination, and the RCL determined by the director under subparagraph (E) is more than three levels lower than the RCL level proposed by the group home provider, the department shall terminate the rate of a group home program within 30 days of issuance of the director's decision. Notwithstanding the reapplication provisions in subparagraph (B), the department shall deny any request for a new or increased RCL from a group home provider whose RCL is terminated pursuant to this subparagraph, for a period of no greater than two years from the effective date of the RCL termination.

(E) A group home provider may request a hearing of the department's RCL determination under subparagraph (A) no later than 30 days after the date the department issues its RCL determination. The department's RCL determination shall be final if the group home provider does not request a hearing within the prescribed time. Within 60 days of receipt of the request for hearing, the department shall conduct a hearing on the RCL determination. The standard of proof shall be the preponderance of the evidence and the burden of proof shall be on the department. The hearing officer shall issue the proposed decision within 45 days of the close of the evidentiary record. The director shall adopt, reject, or modify the proposed decision, or refer the matter back to the hearing officer for additional evidence or findings within 100 days of issuance of the proposed decision. If the director takes no action on the proposed decision within the prescribed time, the proposed decision shall take effect by operation of law.

(2) Group home programs that fail to maintain at least the level of care and services associated with the RCL upon which their rate was established shall inform the department. The department shall develop regulations specifying procedures to be applied when a group home fails to maintain the level of services projected,

including, but not limited to, rate reduction and recovery of overpayments.

(3) The department shall not reduce the rate, establish an overpayment, or take other actions pursuant to paragraph (2) for any period that a group home program maintains the level of care and services associated with the RCL for children actually residing in the facility. Determinations of levels of care and services shall be made in the same way as modifications of overpayments are made pursuant to paragraph (2) of subdivision (b) of Section 11466.2.

(4) A group home program that substantially changes its staffing pattern from that reported in the group home program statement shall provide notification of this change to all counties that have placed children currently in care. This notification shall be provided whether or not the RCL for the program may change as a result of the change in staffing pattern.

(f) The standardized schedule of rates for fiscal year 1998–99 is:

Rate Classification Level	Point Ranges	FY 1998-99 Standard Rate
1	Under 60	\$1,254
2	60- 89	1,567
3	90-119	1,879
4	120-149	2,191
5	150-179	2,502
6	180-209	2,815
7	210-239	3,127
8	240-269	3,440
9	270-299	3,751
10	300-329	4,064
11	330-359	4,375
12	360-389	4,688
13	390-419	5,003
14	420 & Up	5,314

(g) (1) For the 1999–2000 fiscal year, the standardized rate for each RCL shall be adjusted by an amount equal to the California Necessities Index computed pursuant to the methodology described in Section 11453. The resultant amounts shall constitute the new standardized schedule of rates.

(2) Beginning with the 2000–01 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the CNI computed pursuant to Section 11453, subject to the availability

of funds. The resultant amounts shall constitute the new standardized schedule of rates.

(h) The standardized schedule of rates pursuant to subdivisions (f) and (g) shall be implemented as follows:

(1) Any group home program which received an AFDC-FC rate in the prior fiscal year at or above the standard rate for the RCL in the current fiscal year shall continue to receive that rate.

(2) Any group home program which received an AFDC-FC rate in the prior fiscal year below the standard rate for the RCL in the current fiscal year shall receive the RCL rate for the current year.

(i) (1) The department shall not establish a rate for a new program of a new or existing provider unless the provider submits a recommendation from the host county, the primary placing county, or a regional consortium of counties that the program is needed in that county; that the provider is capable of effectively and efficiently operating the program; and that the provider is willing and able to accept AFDC-FC children for placement who are determined by the placing agency to need the level of care and services that will be provided by the program.

(2) The department shall encourage the establishment of consortia of county placing agencies on a regional basis for the purpose of making decisions and recommendations about the need for, and use of, group home programs and other foster care providers within the regions.

(3) The department shall annually conduct a county-by-county survey to determine the unmet placement needs of children placed pursuant to Section 300 and Section 601 or 602, and shall publish its findings by November 1 of each year.

(j) The department shall develop regulations specifying ratesetting procedures for program expansions, reductions, or modifications, including increases or decreases in licensed capacity, or increases or decreases in level of care or services.

(k) (1) For the purpose of this subdivision, “program change” means any alteration to an existing group home program planned by a provider that will increase the RCL or AFDC-FC rate. An increase in the licensed capacity or other alteration to an existing group home program that does not increase the RCL or AFDC-FC rate shall not constitute a program change.

(2) For the 1998–99 fiscal year, the rate for a group home program shall not increase, as the result of a program change, from the rate established for the program effective July 1, 1998, except as provided in paragraph (3).

(3) (A) For the 1998–99 fiscal year, the department shall not establish a rate for a new program of a new or existing provider or approve a program change for an existing provider that either increases the program’s RCL or AFDC-FC rate, or increases the licensed capacity of the program as a result of decreases in another

program with a lower RCL or lower AFDC-FC rate that is operated by that provider, unless both of the conditions specified in this paragraph are met.

(i) The licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program.

(ii) The county determines that there is no increased cost to the General Fund.

(B) Notwithstanding subparagraph (A), the department may grant a request for a new program or program change, not to exceed 25 beds, statewide, if (i) the licensee obtains a letter of recommendation from the host county, primary placing county, or regional consortium of counties regarding the proposed program change or new program, and (ii) the new program or program change will result in a reduction of referrals to state hospitals during the 1998–99 fiscal year.

(l) General unrestricted or undesignated private charitable donations and contributions made to charitable or nonprofit organizations shall not be deducted from the cost of providing services pursuant to this section. The donations and contributions shall not be considered in any determination of maximum expenditures made by the department.

(m) The department shall, by October 1 each year, commencing October 1, 1992, provide the Joint Legislative Budget Committee with a list of any new departmental requirements established during the previous fiscal year concerning the operation of group homes, and of any unusual, industrywide increase in costs associated with the provision of group care which may have significant fiscal impact on providers of group homes care. The committee may, in fiscal year 1993–94 and beyond, use the list to determine whether an appropriation for rate adjustments is needed in the subsequent fiscal year.

SEC. 62. Section 11463 of the Welfare and Institutions Code is amended to read:

11463. (a) The department, with the advice, assistance, and cooperation of the counties and foster care providers, shall develop, implement, and maintain a ratesetting system for foster family agencies.

No county shall be reimbursed for any percentage increases in payments, made on behalf of AFDC-FC funded children who are placed with foster family agencies, which exceed the percentage cost-of-living increase provided in any fiscal year beginning on January 1, 1990, as specified in subdivision (c) of Section 11461.

(b) The department shall develop regulations specifying the purposes, types, and services of foster family agencies, including the use of those agencies for the provision of emergency shelter care. Distinction for ratesetting purposes shall be drawn between foster

family agencies which provide treatment of children in foster families and those which provide nontreatment services.

(c) The department shall develop and maintain regulations specifying the procedure for the appeal of department decisions about the setting of an agency's rate.

(d) On and after July 1, 1998, the schedule of rates, and the components used in the rate calculations specified in the department's regulations, for foster family agencies shall be increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new schedule of rates for foster family agencies.

SEC. 63. Section 11465 of the Welfare and Institutions Code is amended to read:

11465. (a) When a child is living with a parent who receives AFDC-FC benefits, the rate paid to the provider on behalf of the parent shall include an amount for care and supervision of the child.

(b) For each category of eligible licensed community care facility, as defined in Section 1502 of the Health and Safety Code, the department shall adopt regulations setting forth a uniform rate to cover the cost of care and supervision of the child in each category of eligible licensed community care facility.

(c) (1) On and after July 1, 1998, the uniform rate to cover the cost of care and supervision of a child pursuant to this section shall be increased by 6 percent, rounded to the nearest dollar. The resultant amounts shall constitute the new uniform rate.

(2) Subject to the availability of funds, for the 1999–2000 fiscal year and annually thereafter, these rates shall be adjusted for cost of living pursuant to procedures in Section 11453.

SEC. 64. Section 11466.21 is added to the Welfare and Institutions Code, to read:

11466.21. (a) (1) In accordance with subdivision (b), as a condition to receive an AFDC-FC rate for a group home program or a foster family agency program that provides treatment services, the provider shall arrange to have a financial audit conducted on an annual basis.

(2) The scope of the financial audit shall include all of the programs and activities operated by the provider and shall not be limited to those funded in whole or in part by the AFDC-FC program. The financial audits shall include, but not be limited to, an evaluation of the accounting and control systems of the provider.

(3) The provider shall have its financial audit made by certified public accountants or by state-licensed public accountants who have no direct or indirect relationship with the functions or activities being audited, or with the provider, its board of directors, officers, or staff.



(4) The provider shall have its financial audits made using generally accepted auditing standards applicable to private entities organized and operated on a nonprofit basis.

(5) (A) Each provider shall have the flexibility to define the calendar months included in its fiscal year.

(B) A provider may change the definition of its fiscal year. However, the financial audit conducted following the change shall cover all of the months since the last audit, even though this may cover a period that exceeds 12 months.

(b) (1) Except as provided for in paragraph (3), as a condition to receive an AFDC-FC rate that becomes effective on or after July 1, 1999, a provider shall submit a copy of its most recent financial audit as a component of any rate application, including an annual rate application, an application for a rate for a new program of an existing or new provider, an application for a change in a program's rate classification level, and an application for a program change.

(2) A rate application shall not be considered complete until and unless the most recent financial audit of the provider is submitted to the department.

(3) (A) For the period July 1, 1999, through June 30, 2000, a new provider that was incorporated on or after October 1, 1997, shall not be required to submit a copy of a financial audit as a component of its application for an AFDC-FC rate for a new program.

(B) Effective July 1, 2000, a new provider that has been incorporated for fewer than 12 calendar months shall not be required to submit a copy of a financial audit as a component of its application for an AFDC-FC rate for a new program.

(c) (1) The department shall develop regulations establishing a process for group home and foster family agency providers, with a total licensed capacity of 12 or fewer persons, to apply for and receive financial assistance for the conduct of the annual financial audit. In recognition of the fact that the costs of a financial audit will be higher for small providers, relative to their revenues and expenditures, than they will be for larger providers, financial assistance shall be provided on a sliding scale basis to offset the costs of the audit. An eligible provider may receive up to two thousand five hundred dollars (\$2,500) annually, or one-half of the actual costs of the financial audit, whichever is less. The department shall implement this subdivision through the adoption of emergency regulations.

SEC. 65. Section 11467 of the Welfare and Institutions Code is repealed.

SEC. 66. Chapter 2.5 (commencing with Section 16160) is added to Part 4 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 2.5. FOSTER CHILD OMBUDSMAN PROGRAM

16160. The Legislature finds and declares that the people of California have benefited from the establishment of a long-term care ombudsperson pursuant to Section 9710 of the Welfare and Institutions Code and a child care ombudsperson program pursuant to Section 1596.872a of the Health and Safety Code. It is the intent of the Legislature to provide similar protections for foster children by establishing a foster care ombudsperson program within the State Department of Social Services.

16161. The Office of the State Foster Care Ombudsperson shall be established as an autonomous entity within the department for the purpose of providing children who are placed in foster care, either voluntarily or pursuant to Section 300 and Sections 600 and following, with a means to resolve issues related to their care, placement, or services.

16162. The director, in consultation with a committee of interested individuals, shall appoint an ombudsperson qualified by training and experience to perform the duties of the office for a term of two years. The director shall select the committee members, the majority of whom shall be representatives of children's advocacy organizations and current or former foster youth.

16163. The department shall hire the necessary personnel to perform the functions of the office. Priority shall be given to former foster youth in hiring decisions.

16164. The Office of the State Foster Care Ombudsperson shall do all of the following:

(a) Disseminate information on the rights of children and youth in foster care and the services provided by the office. The information shall include notification that conversations with the office may not be confidential.

(b) Investigate and attempt to resolve complaints made by or on behalf of children placed in foster care, related to their care, placement, or services.

(c) Decide, in its discretion, whether to investigate a complaint, or refer complaints to another agency for investigation.

(d) Upon rendering a decision to investigate a complaint from a complainant, notify the complainant of the intention to investigate. If the office declines to investigate a complaint or continue an investigation, the office shall notify the complainant of the reason for the action of the office.

(e) Update the complainant on the progress of the investigation and notify the complainant of the final outcome.

(f) Document the number, source, origin, location, and nature of complaints.

(g) Compile and make available to the Legislature all data collected over the course of the year including, but not limited to, the

number of contacts to the toll-free telephone number, the number of complaints made, the number of investigations performed by the office, the number of referrals made, and the number of unresolved complaints.

(h) Have access to any record of a state or local agency that is necessary to carry out his or her responsibilities, and may meet or communicate with any foster child in his or her placement or elsewhere.

16165. In his or her efforts to resolve complaints related to foster care, the ombudsperson may do all of the following:

(a) Conduct whatever investigation he or she deems necessary.

(b) Attempt to resolve the complaint informally.

(c) Submit a written plan to the relevant state or county agency recommending a course of action to resolve the complaint. If the ombudsperson makes a written recommendation, the state or county agency shall submit a written response to the ombudsperson within 30 business days.

16167. (a) A toll-free number shall be established for the office.

(b) Social workers shall provide foster children with the toll-free number for the office and verbal or written information regarding the existence and purpose of the office.

SEC. 67. Section 16501.1 of the Welfare and Institutions Code is amended to read:

16501.1. (a) The Legislature finds and declares that the foundation and central unifying tool in child welfare services is the case plan.

(b) The Legislature further finds and declares that a case plan ensures that the child receives protection and proper case management, and that services are provided to the parents or other caretakers as appropriate. A case plan shall be based upon the principles of this section and shall document that a preplacement assessment of the service needs of the child and family, and preplacement preventive services, have been provided, and that reasonable efforts to prevent out-of-home placement have been made.

(c) When out-of-home placement is used to attain case plan goals, the decision regarding choice of placement shall be based upon selection of the least restrictive or most familylike and most appropriate setting and selection of the environment best suited to meet the child's special needs and best interests, or both. The selection shall consider, in order of priority, placement with relatives, tribal members, and foster family, group care, and residential treatment pursuant to Section 7950 of the Family Code.

(d) A written case plan shall be completed within 30 days of the initial removal of the child or of the in-person response required under subdivision (f) of Section 16501 if the child has not been removed from his or her home, or by the date of the dispositional



hearing pursuant to Section 358, whichever occurs first. The case plan shall be updated, as the service needs of the child and family dictate. At a minimum, the case plan shall be updated in conjunction with each status review hearing conducted pursuant to Section 366.21, and the hearing conducted pursuant to Section 366.25 or 366.26, but no less frequently than once every six months.

(e) The child welfare services case plan shall be comprehensive enough to meet the juvenile court dependency proceedings requirements pursuant to Article 6 (commencing with Section 300) of Chapter 2 of Part 1 of Division 2.

(f) The case plan shall be developed as follows:

(1) The case plan shall be based upon an assessment of the circumstances which required child welfare services intervention.

(2) The case plan shall identify specific goals, and the appropriateness of the planned services in meeting those goals.

(3) The case plan shall identify the original allegations of abuse or neglect, as defined in Article 2.5 (commencing with Section 11164) of Chapter 2 of Title 1 of Part 4 of the Penal Code, or the conditions cited as the basis for declaring the child a dependent of the court pursuant to Section 300, or all of these, and the other precipitating incidents which led to child welfare services intervention.

(4) The case plan shall include a description of the schedule of the social worker contacts with the child and the family or other caretakers. The frequency of these contacts shall be in accordance with regulations adopted by the State Department of Social Services. If the child has been placed in foster care out-of-state, the county social worker or a social worker on the staff of the social service agency in the state in which the child has been placed shall visit the child in a foster family home or the home of a relative at least every 12 months and submit a report to the court on each visit. For children in out-of-state group home facilities, visits shall be conducted at least monthly, pursuant to Section 16516.5.

(5) When out-of-home services are used, the frequency of contact between the natural parents or legal guardians and the child shall be specified in the case plan. The frequency of those contacts shall reflect overall case goals, and consider other principles outlined in this section.

(6) When out-of-home placement is made, the case plan shall include documentation of the provisions specified in subdivisions (b), (c), and (d) of Section 16002.

(7) When out-of-home placement is made in a foster family home, group home or other child care institution that is either a substantial distance from the home of the child's parent or out of state, the case plan shall specify the reasons why that placement is in the best interests of the child. When an out-of-state group home placement is recommended or made, the case plan shall, in addition, specify compliance with Section 7911.1 of the Family Code.



(8) When out-of-home services are used, the case plan shall include a recommendation regarding the appropriateness of unsupervised visitation between the child and any of the child's siblings. This recommendation shall include a statement regarding the child's and the siblings' willingness to participate in unsupervised visitation. If the case plan includes a recommendation for unsupervised sibling visitation, the plan shall also note that information necessary to accomplish this visitation has been provided to the child or to the child's siblings.

(9) When out-of-home services are used and the goal is reunification, the case plan shall describe the services to be provided to assist in reunification and the services to be provided concurrently to achieve legal permanency if efforts to reunify fail.

(10) (A) Parents and legal guardians shall have an opportunity to review the case plan, sign it whenever possible, and then shall receive a copy of the plan. In any voluntary service or placement agreement, the parents or legal guardians shall be required to review and sign the case plan. Whenever possible, parents and legal guardians shall participate in the development of the case plan.

(B) Parents and legal guardians shall be advised that, pursuant to Section 1228.1 of the Evidence Code, neither their signature on the child welfare services case plan nor their acceptance of any services prescribed in the child welfare services case plan shall constitute an admission of guilt or be used as evidence against the parent or legal guardian in a court of law. However, they shall also be advised that the parent's or guardian's failure to cooperate, except for good cause, in the provision of services specified in the child welfare services case plan may be used in any hearing held pursuant to Section 366.21 or 366.22 as evidence.

(11) The case plan shall be included in the court report and shall be considered by the court at the initial hearing and each review hearing. Modifications to the case plan made during the period between review hearings need not be approved by the court if the casework supervisor for that case determines that the modifications further the goals of the plan.

(g) If the court finds, after considering the case plan, that unsupervised sibling visitation is appropriate and has been consented to, the court shall order that the child or the child's siblings be provided with information necessary to accomplish this visitation. Nothing in this section shall be construed to require or prohibit the probation officer's facilitation, transportation, or supervision of visits between the child and his or her siblings.

(h) The case plan documentation on sibling placements required under this section shall not require modification of existing case plan forms until the Child Welfare Services Case Management System is implemented on a statewide basis.

(i) The department, in consultation with the County Welfare Directors Association and other advocates, shall develop standards and guidelines for a model relative placement search and assessment process based on the criteria established in Section 361.3. These guidelines shall be incorporated in the training described in Section 16206. These model standards and guidelines shall be developed by March 1, 1999.

SEC. 68. Section 16501.2 is added to the Welfare and Institutions Code, to read:

16501.2. (a) The Legislature finds and declares all of the following:

(1) Safety, stability, and the permanence of families in the child welfare system are of paramount importance.

(2) Ongoing assessments that build on the strength of the child and family unit, and that identify desired outcomes, are critical in the development of appropriate case plans for children.

(3) If it is necessary to place a child in out-of-home care, the use of a formal child and family assessment can enhance the appropriateness of placement and the identification and delivery of services necessary to meet the child's needs and strengths, consistent with case plan goals.

(b) On or before December 31, 1998, the department shall issue to all county placing agencies and the courts, current best practice guidelines for the assessment of a child and the child's family unit. The guidelines shall include recommended methods for gathering certain background information on the child and the child's family unit, identifying appropriate services for the case plan, and methods of monitoring and reassessing the case plan to best meet case plan goals. For children placed in group homes or foster family agencies, the guidelines shall include methods for identifying appropriate placement options, and monitoring the services provided by the group home or foster family agency to best address the strengths and needs of the child and the child's family unit.

(c) (1) The department shall conduct a pilot project to test the effectiveness of utilizing best practice standards for the assessment of children and families receiving child welfare and foster care services, for the purpose of identifying the strengths and needs of the family and the child, developing and monitoring appropriate case plans, and determining appropriate services.

(2) The pilot project shall meet all of the following conditions:

(A) On or before July 1, 1999, the department shall solicit participation in the pilot project by counties, and, to the extent possible, provide for broad geographical representation. On or before September 1, 1999, the department shall select pilot counties and begin operation of the pilot project.



(B) The pilot project shall use an assessment protocol or process developed by the department in collaboration with county agencies and other stakeholders.

(C) The pilot project shall be evaluated independently to judge the effectiveness of the assessment protocol or instrument, including whether the assessment provides adequate background data on the child and the child's family unit, improves achievement of case plan goals, is judged useful to the counties and service providers, and can be applied with ease.

(D) For children placed in group homes or foster family agencies, the assessment protocol or process developed pursuant to subparagraph (B) shall identify the strengths and needs of the child to be met by the placement program and methods for monitoring the delivery of services by the placement agencies.

(E) The assessment shall be sensitive to the ethnic and linguistic background of the children and families being assessed, and shall include, but not be limited to, the child's age, previous placement history, specific indicators, including living situation, social situation, medical situation, educational situation, vocational situation, emotional situation, behavioral situation, and legal, cultural, and religious history, and areas and activities of interest.

(d) In collaboration with county agencies and other stakeholders, and based on the results of the pilot project described in this section, the department shall develop a formal assessment process for children receiving foster care and child welfare services. On or before May 1, 2001, the department shall inform the Legislature on the status of the pilot project described in this section, and the proposed assessment protocol or process with recommendations for its implementation, including incorporation of the assessment process into the child welfare services case management system.

(e) Upon satisfactory completion of the pilot project described in this section, and development of a formal assessment instrument or process, the department, in collaboration with representatives of county placing agencies, training academies, and the California Social Work Education Center, shall integrate training and technical assistance on the family assessment guidelines into the curriculum of the regional training academies.

SEC. 69. Section 16516.5 is added to the Welfare and Institutions Code, to read:

16516.5. (a) Notwithstanding any other provision of law or regulation, all foster children placed in group homes by county welfare departments or county probation departments shall be visited at least monthly by a county social worker or probation officer.

(b) Notwithstanding Section 10101, the state shall pay 100 percent of the nonfederal costs associated with the monthly visitation requirement in subdivision (a) in excess of the minimum semiannual visits required under current regulations.

SEC. 70. Section 18358.30 of the Welfare and Institutions Code is amended to read:

18358.30. (a) Rates for foster family agency programs participating under this chapter shall be exempt from the current AFDC-FC foster family agency ratesetting system.

(b) Rates for foster family agency programs participating under this chapter shall be set according to the appropriate service and rate level based on the level of services provided to the eligible child and the certified foster family. For an eligible child placed from a group home program, the service and rate level shall not exceed the rate paid for group home placement. For an eligible child assessed by the county interagency review team as at imminent risk of group home placement or psychiatric hospitalization, the appropriate service and rate level for the child shall be determined by the interagency review team at time of placement. In all of the service and rate levels, the foster family agency programs shall:

(1) Provide social work services with average caseloads not to exceed eight children per worker, except that social worker average caseloads for children in Service and Rate Level E shall not exceed 12 children per worker.

(2) Pay an amount of one thousand two hundred dollars (\$1,200) per child per month to the certified foster parent or parents.

(3) Perform activities necessary for the administration of the programs, including, but not limited to, training, recruitment, certification, and monitoring of the certified foster parents.

(4) (A) (i) Provide a minimum average range of service per month for children in each service and rate level in a participating foster family agency, represented by paid employee hours incurred by the participating foster family agency, by the in-home support counselor to the eligible child and the certified foster parents depending on the needs of the child and according to the following schedule:

Service and Rate Level	In-Home Support Counselor Hours Per Month
A	98–114 hours
B	81–97 hours
C	64–80 hours
D	47–63 hours

(ii) Children placed at Service and Rate Level E shall receive crisis intervention and other support services on a flexible, as needed, basis from an in-home support counselor. The foster family agency shall provide one full-time in-home support counselor for every 20 children placed at this level.

(B) When the interagency review team and the foster family agency agree that alternative services are in the best interests of the child, the foster family agency may provide the following types of services in lieu of in-home support services required by subparagraph (A):

- (i) Therapy.
- (ii) Behavior modification services.
- (iii) Support counselor services.
- (iv) Psychotropic medication and monitoring.
- (v) Respite services.
- (vi) Family therapy to aid in family reunification.
- (vii) Education liaison services to maintain the child in the classroom.

(c) The department or placing county, or both, may review the level of services provided by the foster family agency program. If the level of services actually provided are less than those required by subdivision (b) for the child's service and rate level, the rate shall be adjusted to reflect the level of service actually provided, and an overpayment may be established and recovered by the department.

(d) (1) On and after July 1, 1998, the standard rate schedule of service and rate levels shall be:

Service and Rate Level	Fiscal Year 1998-99 Standard Rate
A	\$3,957
B	\$3,628
C	\$3,290
D	\$2,970
E	\$2,639

(2) Beginning with the 1999–2000 fiscal year, the standardized schedule of rates shall be adjusted annually by an amount equal to the California Necessities Index computed pursuant to Section 11453, subject to the availability of funds. The resultant amounts shall constitute the new standard rate schedule for foster family agency programs participating under this chapter.

(e) Rates for foster family agency programs participating under this chapter shall not exceed Service and Rate Level A at any time during an eligible child's placement. An eligible child may be initially placed in a participating intensive foster care program at any one of the five Service and Rate Levels A to E, inclusive, and thereafter placed at any level, either higher or lower, not to exceed a total of six months at any level other than Service and Rate Level E, unless it is determined to be in the best interests of the child by the child's county interagency review team and the child's certified foster

parents. The child's interagency county interagency placement review team may, through a formal review of the child's placement, extend the placement of an eligible child in a service and rate level higher than Service and Rate Level E for additional periods of up to six months each.

(f) It is the intent of the Legislature that the rate paid to participating foster family agency programs shall decrease as the child's need for services from the foster family agency decreases. The foster family agency shall notify the placing county and the department of the reduced services and the pilot classification model, and the rate shall be reduced accordingly.

(g) It is the intent of the Legislature to prohibit any duplication of public funding. Therefore, social worker services, payments to certified foster parents, administrative activities, and the services of in-home support counselors that are funded by another public source shall not be counted in determining whether the foster family agency program has met its obligations to provide the items listed in paragraphs (1), (2), (3), and (4) of subdivision (b). The department shall work with other potentially affected state departments to ensure that duplication of payment or services does not occur.

SEC. 71. Chapter 12.86 (commencing with Section 18987.6) is added to Part 6 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 12.86. CHILDRENS SERVICES PROGRAM DEVELOPMENT

18987.6. It is the intent of the Legislature to do all of the following:

(a) Permit all counties to provide children with service alternatives to group home care through the development of expanded family-based services programs and to expand the capacity of group homes to provide services appropriate to the changing needs of children in their care.

(b) Encourage collaboration among persons and entities including, but not limited to, parents, county welfare departments, county mental health departments, county probation departments, county health departments, special education local planning agencies, school districts, and private service providers for the purpose of planning and providing individualized services for children and their birth or substitute families.

(c) Ensure local community participation in the development of innovative delivery of services by county placing agencies and service providers and the use of the service resources and expertise of nonprofit providers to develop family-based and community-based service alternatives.

18987.61. (a) Each county may enter into performance agreements with private, nonprofit agencies to encourage innovation in the delivery of children's services, to develop services

not available in the community, and to promote change in the child welfare services system.

(b) In developing the agreements, counties and service providers shall pursue services that enhance the ability of children to remain in the least restrictive, most family-like setting possible and promote services that address the needs and strengths of individual children and their families.

(c) Programs developed pursuant to this section shall operate within the county, or in another county with the approval of that county.

(d) Agreements pursuant to subdivision (a) shall be for a period of up to three years.

(e) A county shall provide a report to the director within three months of the end of each agreement to report on the details of the agreement, the results achieved during its operation, and the applicability of the approach to a wider population. The director shall make these reports available to the Legislature upon request.

18987.62. (a) Upon request from a county, the director may waive regulations governing foster care payments or the operation of group homes to enable counties to implement the agreements established pursuant to Section 18987.61. Waivers granted by the director shall be applicable only to services provided under the terms of the agreement and for the duration of the agreement. A waiver shall only be granted when all of the following apply:

(1) The agreement promises to offer a worthwhile test of an innovative approach or to encourage the development of a new service for which there is a recognized need.

(2) The regulatory requirement prevents the implementation of the agreement.

(3) The requesting county proposes to monitor the agreement through performance measures that ensure that the purposes of the waived regulation will be achieved.

(b) The director shall take steps that are necessary to prevent the loss of any substantial amounts of federal funds as a result of the waivers granted under this section. The waiver may specify the extent to which the requesting county shall share in any cost resulting from any loss of federal funding.

(c) The director shall not waive regulations that apply to the health and safety of children served by participating private agencies.

(d) The director shall notify the appropriate policy and fiscal committees of the Legislature whenever waivers are granted and when a waiver of regulations was required for the implementation of the county's proposed agreement. The director shall identify the reason why the development of the services outlined by the agreement between the county and the service provider are hindered by the regulations to be waived.

SEC. 72. (a) The State Department of Social Services shall convene a working group of representatives of County Welfare Directors, the Chief Probation Officers, foster and former foster youth, group home providers, and other interested parties convene a working group to develop protocols outlining the roles and responsibilities of placing agencies and group homes regarding emergency and nonemergency placements of foster children in group homes.

(b) The department shall submit a report obtained from the working group containing sample protocols to the appropriate policy and fiscal committees of the Legislature by May 1, 1999.

(c) The model protocols shall at a minimum address all of the following:

(1) Relevant information regarding the child and family that placement workers shall provide to group homes, including health, mental health, and education information pursuant to Section 16010 of the Welfare and Institutions Code.

(2) Appropriate orientations to be provided by group homes for foster children and, if appropriate, their families, after a decision to place has been made.

(3) County and provider responsibilities in ensuring the child receives timely access to treatment and services to the extent they are available identified in the child's case plan and treatment plan, including multidisciplinary assessments provided in counties involved in the Systems of Care Program under Part 4 (commencing with Section 5850) of Division 5 of the Welfare and Institutions Code.

(4) County and provider responsibilities in the periodic monitoring of foster children to ensure the continued appropriateness of the placements and the continued progress toward achieving the case plan and treatment plan goals.

(5) Appropriate mechanisms, timelines, and information sharing regarding discharge planning.

SEC. 73. The State Department of Social Services may adopt emergency regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code to implement Sections 7911, 7911.1, and 7911.2 of the Family Code, Sections 1520.1, 1522.02, 1522.04, 1522.41, 1522.42, 1538, and paragraph (3) of subdivision (a) of Section 1522.43 of the Health and Safety Code, and Sections 11463, 11465, 16501.1, and 16516.5 of the Welfare and Institutions Code, and shall adopt emergency regulations for Section 11462 of the Welfare and Institutions Code, as affected by this act. The adoption of regulations pursuant to this section shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, or safety. The regulations shall become effective immediately upon filing with the Secretary of State. The regulations shall not remain in effect more than 180 days unless the adopting agency complies with all of the

provisions of Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, as required by subdivision (e) of Section 11346.1 of the Government Code.

SEC. 74. The department shall convene a community care facility law enforcement task force. At the first meeting, the participants shall identify a chairperson who shall, by March 1, 1999, identify and recommend to the appropriate policy and fiscal committees of the Legislature specific statutory and regulatory changes to permit efficient and effective criminal prosecution of, and to permit efficient and effective civil recovery of public funds from, individuals associated with licensed facilities, who are involved in illegal activities surrounding public funds paid to providers for the care of, and delivery of services to clients, of community care facilities. The community care facilities task force shall also make recommendations regarding the duties of the Fraud Investigation Unit established by the Budget Act of 1998. Participants in the task force shall include, but not be limited to, the State Department of Social Services, the Department of Justice, law enforcement officers, probation and welfare workers, district attorneys, providers, public defenders, and current or former foster youths. The task force shall also evaluate potential consequences of any proposed changes with respect to group home providers who do not engage in illegal activities.

SEC. 75. (a) The State Department of Social Services, under the direction of the Health and Welfare Agency and in collaboration with appropriate public and private organizations representing state and county agencies, as well as group homes and foster family agencies, current or former foster youth, and other interested parties, shall reexamine the role of out-of-home placements currently available for children served within the child welfare services system. The focus of this reexamination shall be the role of group care within a family-based system of care, including group homes, foster family agencies or certified parents, and foster family homes or foster parents. The Legislature finds and declares that the task of defining the role of group care and establishing the underlying policy is a critically important step to reforming the current out-of-home care system. The reexamination process shall be conducted in collaboration with the primary stakeholders, and shall be based on empirical research and “best practices” data. The process shall include gathering research, holding forums, and entering into partnerships with academia and other stakeholders to complete the task.

(b) Upon a determination of the role of group care pursuant to the reexamination required by subdivision (a), the Health and Welfare Agency shall continue the reexamination to the next phase, which shall be the development of the related programmatic and administrative requirements for group care. The necessary



supporting requirements for the development of these programmatic and administrative requirements shall include, but are not limited to, the following:

(1) Definition of the needs of children to be served, including differentiation if appropriate for the unique needs of wards and dependents.

(2) Program design and standards.

(3) Licensing categories.

(4) Rates and ratesetting procedures.

(5) Performance agreements.

(6) Outcomes, outcome indicators, and performance measures.

(7) Mechanisms to ensure continuous quality improvement.

(8) Related oversight and regulatory scheme.

(c) The Health and Welfare Agency shall, in implementing subdivision (b), give particular attention to the role of state licensing in determining quality of care and the need for a new licensing category or categories to better meet the needs of the children served. It is the intent of the Legislature that licensing of group care should not be based on a one-size-fits-all model. Instead, the needs of children should be foremost and options made available to effectively serve children who pose a risk of flight or require treatment interventions currently not available, or both, such as locked perimeters and structured programs that permit different housing arrangements, clothing restrictions, visitation restrictions, and other treatment-based requirements. If it is determined by the Health and Welfare Agency that such a new licensing category or categories is immediately necessary to meet the standards expressed in this section, the Health and Welfare Agency shall develop and submit proposals to the Legislature in order to take this action.

(d) The Health and Welfare Agency shall develop a proposal, including a work plan and timeframes to complete this process, and submit it to the Legislature by April 1, 1999.

(e) Any proposal or recommendation submitted pursuant to this section shall not become effective unless enacted pursuant to statute.

SEC. 76. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because in that regard this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of

the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

SEC. 77. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make changes in provisions of law relating to children placed in foster care, as well as in provisions relating to facilities licensed by the State Department of Social Services, at the earliest possible time, it is necessary that this act go into immediate effect.

